App. F. IX-4

Treasure
17/1/66
1933.
(GA)

Previous References

JoA 72-33-4

File No. 295-33

Serial Nos. 1-2

Later References.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Nil

Part B for June 35

SUBJECT.

J. A. of an Apr travelling in a Railway by a Class lower than that by which he is entitled to travel

S(21)

No H 8685-745 dt 28/6/35.

No ki confirm
in Hons Depts
in Secretariat Bhp
in compile -

WD 01965—GPB—15,000—7-7-34

Adds a note to Art 486(a) M.S.R.-

5703

Serial No.	
1	Letter no ~~3963~~ 225 D/ 10. 5. 1934 from the Comptroller suggesting for consideration of Govt. that in the case of an officer entitled to travel in second class but is obliged to travel in a train which provides only third class accomodation, the extra half fare may be second class fare and not third. Submitted for orders. The only objection to the suggestion is that we would be rendering our rules more complicated instead of making them simple. It is also doubtful if there could be several cases of the kind described by the Comptroller. (H Seey) 30/5/34 29.5.34. Do not the rules as they stand allow what the Comptr recommends In the case mentioned by him the officer is entitled to 1½ second class but because he actually travels in the third class in lieu of single 1st class for which he gets single 1st class the extra ½ second class remains unaffected. Chf Bring up with rules. 30/5

NOTE—Contn. Sheet.

WD 01536—GPB—7,500—5-4-34

The rate of extra half fare payable for Railway Journeys by a lower class

File No. 35[illegible] of 193 . | General and Revenue Secretariat

Submitted. As explained in person the extra half fare is not based on the class ~~of~~ to which an officer is entitled for want of a specific provision in the rules to that effect. The rule is that an officer not travelling in the class to which he is entitled but travelling in a lower class, is paid only railway fare based on the fare of the class in which he actually travelled. Flag A.
So an officer entitled to travel in Second class but travels in the third, is given one and a half times the fare of the third class.

If approved the following rule will be added to Art. 486 M&R.

"If an officer travels by a class lower than that by which he is entitled to travel, he may draw one fare of the class by which he actually travels plus half a fare of the class by which he is entitled to travel."

For orders

5.6.34.

H Seey) 16/6/34

Master approved

14/6.

16-6-34

17.6.34

DEV. N'S OFF. No. 2486

3963 Rate of extra half fare payable for Railway journeys by a lower class.

General and Revenue Secretariat | File No. | of 193 3963 | [App. F. III—2

Serial No.

Submitted with a draft order for approval.

M W 18.6.34.

H Secy) 22/6/34

May be approved

D

Issue

M 28/6

TYPING SECTION. 25 JUN. 1934 GENL. & REV. SECTT.

Enclosures to be listed & Correction slips

B

M W 22.1.35

H 8685-745 of 28/6/34

23/6/34

NOTE—Contn. Sheet.

WD 01536—GPB—7,500—5-4-34

SFA-295-33--1

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. 225/TA 14 MAY 1934 Bangalore, dated 10th May 1934.

From

M. VENKATESA IYENGAR, Esq., M.A.,
Comptroller to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

To

S. Shamanna Esq., B.A,
Secretary to the Government of Mysore,
Financial Department, Bangalore.

Sir,

I have the honor to state that under Art.486(A) M.S.R. an officer travelling by Railway is given one and a half times the fare of the class by which he is entitled to travel, the half fare being intended to cover his incidental expenses. But it occasionally happens that in the interests of work, an officer entitled to travel in Second Class is obliged to take a train which provides only Third Class accommodation. In such a case the note under the above Article provides that he can get only one and a half times the fare of the third class. This often acts as a hardship to officers, because their travelling in the lower class will not by any means lower their scale of incidental expenditure - in fact it may even be increased on account of the less free allowance for luggage. It would therefore appear to be reasonable to allow officers in that situation to draw the half fare for incidentals on the basis of the class in which they are entitled to travel rather than of that in which they make the actual journey.

No extra expenditure is involved in modifying the rule in this sense. It may on the other hand to some extent further the interests of Government work, because an officer who finishes his work at any place, will be inclined to move on to his next camp without waiting

[illegible] th train which will provide him with the higher class accommodation, a course which he would not be inclined to take under the existing rules as he is likely to lose thereby.

If this view commends itself to Government, suitable orders may be passed amending the Article 486(a) of the M.S.R.

I have the honor to be,
Sir,
Your most obedient servant,

M. Venkatesalyengar

Comptroller

G.R.S. App. F VI—G 2]

SUBJECT .....

.....

.....

Diary No. of letter replied to .....

Section S'tA

File No. 29

Serial No. 2

General and Revenue Secretariat

( )

the 193 .

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue 27/6/ 193 6

Signed by .....

Read—

Order thereon.—No.

Government direct

the following note be

added To Article 486(a)

M. S. R

If an officer trave

by a class lower tha

that by which he is

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

entitled to travel, he
may. fare of
the class by which he
actually travels plus half the
~~fare~~ fare of the class by
which he is entitled to
travel

(N. 316

& Financial Secretary
22.6.34

To The Comptroller with reference to his
letter no 225 T-a dt 10.5.1934
To ~~the other~~ Heads of Departments
To the Secretaries to Government
To the Compiler Mysore Gazette
for publication in the Gazette.

List of Enclosure.

18.6.34.

Copied by

Examined by

S. O.

Government of his highness the Maharaja of Mysore.

FINANCIAL DEPARTMENT.

G. O. No. Fl. 8685-745—S. & A. 295-33-2, dated 27th June 1934.

Travelling Allowance.

—— of an officer travelling in a Railway by a class lower than that by which he is entitled to travel.

ORDER No. FL. 8685-745—S. & A. 295-33-2, DATED BANGALORE, THE 27TH JUNE 1934.

Government direct that the following note be added to Article 486 (*a*), Mysore Service Regulations :—

If an officer travels by a class lower than that by which he is entitled to travel, he may draw one full fare of the class by which he actually travels *plus* half the fare of the class by which he is entitled to travel.

Secretary to Government,
Financial Department.

To—The Comptroller to Government with reference to his letter No. 225—T. A., dated 10th May 1934.
The Heads of Departments.
The Secretaries to Government.
The Compiler, *Mysore Gazette.*

Exd—C. K.

W D 1—GPB—765—4-7-34.

CONFIDENTIAL.

SUCCESSION TO THE HAGALVADI POLLEGAR POLITICAL PENSIONS DRAWN BY THE LATE SUGHANDARAJA AND DEVAMMAJI.

WD 1331—GPB—22-9-33.

File No. 61 of 1930.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

PROCEEDINGS OF THE GENERAL AND REVENUE DEPARTMENTS.

Salaries and Allowances.

"A" Collection. **Serial Nos. 1 to 3.**

Succession to the Hagalvadi Pollegar Political Pensions drawn by late Sughandaraja and Devammaji.

TABLE OF CONTENTS.

Serial No.	Number and date of letter with contents	Reference	Page in "A" Proceedings
1	From the Comptroller to Government— Letter No. S. H. T. 781, dated 11—16th August 1930. Forwards for the orders of Government the report of the State Huzur Treasury Officer, Bangalore, in the matter of the succession to the Hagalvadi Pollegar Political Pension which has fallen vacant by the demise of the last holder.		17
2	From *Rajasabhabhushana, Diwan Bahadur* Sir K. P. Puttanna Chetty, KT., C.I.E.— Presents a memorial, dated 30th January 1932, as guardian of the petitioners Rajasekharayya, Kumaraswamy, Sreekantayya and Visvanathayya, minors in regard to the grant of the pensions to them. Petition, dated nil, from Nanjundaraju, minor by next friend Channabasappa residing at Hagalvadi. Prays that the pension enjoyed by Sughandaraja may kindly be bestowed on him as he is the adopted son of the deceased pensioner.		27 30 31
3	To the Comptroller to Government of Mysore— Government Order No. Fl. 6992, dated 11—12th March 1932. Directs that the vacant pension of Sughandaraja should lapse to Government.		31

File No. 41 of 1932.

Salaries and Allowances.

TABLE OF CONTENTS.

Serial No.	Number and date of letter with contents	Reference	Page in "A" Proceedings
1	From Sir K. P. Puttanna Chetty, KT., C.I.E.— Memorial, dated 6th July 1932, praying that they be given a hearing.		33
2	From Mr. H. S. Nanjundaraja, son of Sughandaraja, Pollegar of Hagalvadi and Kenchanagudda— Petition, dated 16th July 1933, praying that the order passed in G. O. No. Fl. 6992—S. & A. 61-30-3, dated 11th March 1932 may be reviewed and the pension of Rs. 270 granted to him.		38
3	To Mr. H. S. Nanjundaraja, Bangalore City— Endorsement No. Fl. 1643, dated 15th September 1932. Informs that the case will be heard on the 26th September 1932.		40
4	To Sir K. P. Puttanna Chetty, KT., C.I.E., and the Comptroller to Government— Government Order No. Fl. 5710-11—S. & A. 41-32-4, dated 24—25th April 1933. Directs that there are no reasons to reconsider the orders already passed in the matter.		40

NOTES.

From the Comptroller to Government.

Letter No. S. H. T. 781, dated 11th—16th August 1930, forwards for the orders of Government the report of the State Huzur Treasury Officer, Bangalore, in the matter of the succession to the Hagalvadi Pollegar Political Pension which has fallen vacant by the demise of the last holder.

The State Huzur Treasury Officer's report gives a detailed history of the case and the merits of each claim are also discussed therein. The files in this office Nos. 46, 47 and 47(A) are also put up. The following brief note is submitted :—

2. The original grantee of the pension by Dewan Purniah is one Soogappah Naik of the Hagalvadi family who having married the sole surviving member of the Kenchanagudda family, *viz.*, Rani Ramavva became virtually the sole representative of the two families. Henceforward the Kenchanagudda family became regarded as merged in the Hagalvadi family. According to the genealogical tree on P. P. 5 of the records (File No. 47), Soogappah had no sons and adopted one Veerappaji who enjoyed the pension till his death on 31st December 1877. The amount of pension at his death was Rs. 148-10-7. This was subsequently raised to Rs. 222-6-10 by the addition of 50 per cent and later to Rs. 270 by another increase in Government Order No. 2—P. & A.—G. F. 104 of 92, dated 3rd/6th July 1894.

3. Soogappah's brother Chennaveerappa was also in the enjoyment of a pension of Rs. 22-9-7 in 1812. On his death in 1825, it was given to his adopted son Nanjappah, who having died in 1845, was succeeded by his widow Basavamma who held it for life and the same lapsed to Government. *Vide* Endorsement P. P. 17 of File no. 47 given to the son-in-law and grandson of the deceased. This will be useful in connection with the consideration of the claim of Nanjundappa (No. 5) and also C_2 and C_6. This clearly sets at rest the contention that a "Douhitra" has a claim to the pension of his grandfather (mother's father).

4. Veerappaji married simultaneously two uterine sisters—Thayammaji and Devammaji, daughters of the late Raja of Coorg. Thayammaji, the elder wife had three sons and two daughters while the younger had two sons. On the death of Veerappaji, the pension was registered in the name of Basavalingaraja, the eldest son of the elder wife for the maintenance of himself and the other members of the family. On Devammaji's demur that her step-son Basavalingaraja was not properly maintaining her, Government sanctioned an allowance of Rs. 30 per mensem to her out of the family pension for life, subject to reversion to Basavalingaraja and other representatives of the family.

5. Shortly after, the brothers fell out and the remaining pension of Rs. 240 was equally divided among the three brothers—Basavalingaraja, Sughandaraja and Chennaviraraja, the sons of Thayammaji each getting Rs. 80.

6. Basavalingaraja died in 1918 leaving behind his widow Parvathammaji and a daughter Thayammaji by another wife. The pension of Basavalingaraja was granted to his widow Parvathammaji. It may be noticed that the claim of the daughter, Thayammaji, for this pension was neither preferred nor considered.

Chennaveeraraja died in 1920 as a widower without issue and his pension of Rs. 80 was granted to his elder brother Sughandaraja.

7. Sughandaraja died on 20th May 1929 without issue and the pension of Rs. 160 (his own pension of Rs. 80 plus the pension of Rs. 80 of his deceased brother Channaveeraraja) is now contested by six claimants. The merits of each claimant are examined below :—

8. (1) *Sadasivaraja.*—He is the step-brother of the deceased Sughandaraja, being the son of Veerappaji by his second wife Devammaji.

Sadasivaraja has been debarred from claiming any share in the Hagalvadi family pension on the ground of his adoption to another family. His claim to a share in his father's pension was accordingly rejected so far back as 1891. The judgment of the Sub-Judge's Court of Benares on which he now relies for a claim is nothing new, since this was also considered along with other aspects of the claim before it was rejected in Government Order dated 15th January 1891. He has adduced no further tangible evidence to establish his claim which does not warrant any reconsideration. The circumstance that on the death of Sughandaraja he was put in possession of the deceased's properties by the Amildar of the Taluk does not perhaps give him any new status in the Hagalvadi family. The Amildar-Magistrate has not considered in his proceedings the fact of Sadasivaraja's adoption to another family—presumably he was not aware of it at all. *In the absence of other claimants*, it seemed to him that Sadasivaraja was the proper claimant, Thayammaji, daughter of Basavalingaraja having no objection to the deliverance of the property to Sadasivaraja. The Amildar's order does not preclude other claimants to the property from contesting the claim later. Moreover, the situation at the time was that the properties which were presumably in the possession of the concubines of the deceased had to be taken possession of by the Police, the concubines ejected and the properties handed over to some claimant. Even if Sadasivaraja has a right to the private property of the deceased, which cannot be considered to have been established, the Pollegar Pension of the family is no private property and cannot, in an analogous manner, be inherited by any claimant, however remote, by sheer rule of succession. This point will be considered later in the notes. Government have decided in Government Order No. 11194-6, dated 15th January 1891, already quoted that "Neither Sadasivaraja nor Lingaraja (adopted into other families as above stated) can be held to have any claim to a share in the Hagalvadi Pension enjoyed by their father during his life time....." The claim of Sadasivaraja has therefore to be rejected as untenable.

9. (2) *Veeraraja.*—He is the adopted son of Rajamma, sister of the deceased pensioner Sughandaraja. He therefore stands in the status of a 'douhitra' to Veerappaji, father of Sughandaraja. It is a point of law whether in the degree of kinship to the deceased Veerappaji is nearer to the deceased or remoter than Thayammaji's sons (claimants No. 6) who are 'douhitras' to Basavalingaraja, brother of the deceased. This claimant belongs to another family and cannot claim a share in the Hagalvadi family. If a born son of the family, for instance, Sadasivaraja cannot claim a share of his own father's pension, on the ground of his adoption to another family, how can a person neither born in nor adopted into the family claim a share in that family pension, especially when he is far removed in kinship to the deceased? Hence the claim of Veerappaji has also to be rejected. He is much less entitled to it than Sadasivaraja. Douhitras as such are not entitled to succeed—*vide* para 3 *supra.*

10. (3) *Parvathammaji.*—She is the sister-in-law of the deceased being his brother Basavalingaraja's widow and of all the claimants to the pension under consideration belongs directly to the family. Her contention that "all the other claimants except Sadasivaraja are all bogus persons who are *not related to the family at all*" appears well-grounded. She is already one of the pensioners of the family being given the pension of Rs. 80 of her husband after his demise. She appears to be *the rightful heir to the pension of the deceased* but the only point to be considered is whether, being a woman without male children, she is in need of any more pension than what is allowed for her maintenance since the main idea of the scheme of these pensions is to afford proper maintenance for the members of the family.

11. (4) *Mr. M. V. Shivappa.*—This person is the son of one Veeranna alleged to be the uterine brother of Veerappaji. We only know of Veerappaji from the records as the *adopted* son of Soogappah (the original holder of the pension of the family) in which capacity he enjoyed the pension till his death. It is not known from the records who the natural father of Veerappaji was, how many children he had, etc. These are, in fact, extraneous to the consideration of any claim to the pension of the Hagalvadi family. Since Veerappaji's death, there had been so many vacancies to none of which did Shivappa or any member of his (Shivappa's) family put in a claim. He has now appeared on the scene in a somewhat dramatic suddenness. At this distance of time, it is useless to go back and find out the

antecedents of this claimant and test the veracity of his alleged relationship to Veerappaji. This claim has to be dismissed as pretentious to a degree and as not deserving of consideration.

12. (5) *Nanjundaraja.*—He bases his claim on two grounds—(i) He styles himself as the grandson of one Madappaji alleged uterine brother of Veerappaji, adopted son of Soogappaji. It is alleged that both Veerappaji and Madappaji (and Mr. Veerappa, father of Shivappa—claimant No. 4 and yet another) were the sons of Sidda Chennabasavappa, alleged brother of Soogappah. From the records available in this office, it is gleaned that Soogappah had a brother Chennaveerappa who had a pension of his own. He adopted a boy by name Nanjappa who enjoyed the pension for sometime and died. His pension was enjoyed by his widow till her death (*vide* para 3 of the notes *supra*, *vide* page 5, file No. 104 of 1892-93). The alleged brother Chennabasavappa of Soogappah and this branch of the family is not borne out by the records. Even if this is so, it is not clear how they could have kept quiet so long without preferring their claims with better show of reason when vacancies occurred from time to time earlier after the demise of Soogappah and others. The genealogical tree produced by the party does not tally with the one available in this office records and has therefore to be rejected as fictitious. The whole claim appears so extraordinary and pretentious that it does not seem worthwhile at this distance of time to examine the validity of the claim.

(ii) The next ground is that Nanjundaraja is the adopted son of the deceased Sughandaraja. A copy of the regularly registered deed has been produced. But it suffers from the following defects as observed by the State Huzur Treasury Officer :—

(*a*) that previous approval of Government was not taken for adoption which is necessary to deserve a consideration of his claim to the pension,

(*b*) that the adoption took place on 6th May 1929, just a fortnight before the death of Sughandaraja but that the instrument remained unregistered till nearly six months after his death, and

(*c*) that he was not nearest of kin to the deceased and did not belong to the same family.

13. The fictitious nature of the geneological tree produced by the party with a plausible attempt to trace his relationship to the deceased coupled with the suspicious nature of the adoption deed as observed by the State Huzur Treasury Officer and its belated registration seem to render the whole claim spurious.

14. There is also another aspect to be considered in this connection. Sughandaraja died on 20th May 1929. Sadasivaraja claimed his properties. The Amildar's order adjudging him as the proper claimant is dated 24th June 1929 while the adoption deed is dated 6th May 1929. The death of Sughandaraja was sufficiently well-known at least to those who were in any way connected with him. Even Thayamma, Sughandaraja's brother's daughter, ran up to the place to claim the property of the deceased. It is unbelievable that Nanjundaraja, if an adopted son, so called, could have been unaware of all this. He did not put in his claim before the Amildar at the time nor has he satisfactorily explained why he did not or could not. There is thus a suspicion that the whole thing is a clever concoction pieced together after Sughandaraja's death calculated to create a claim to the properties and the pension of the deceased. This claim under the circumstances has to be rejected.

15. (6) *Rajasekhara and his brothers.*—These are sons of Thayamma, daughter of Basavalingaraja by his second wife and step-daughter of Parvathammaji, claimant No. 3. Thus they are grandsons or " Douhitras " of Sughandaraja's elder brother. These belong to a separate family altogether ; hence they have no title to the pension of the Hagalvadi family. Sadasivaraja No. (1) has at least the claim of having been born in the Hagalvadi family, but is denied the rights of the family on the ground of his adoption to another family. In this case, the claimants have not got even this circumstance to back them up. These have thus no better claim than, for instance, Veeraraja No. (2), since both belong to separate families and are related to Hagalvadi family through females. The relationship as " Douhitra " does not arise at all in the devolution of Pollegar family pensions,

which are not, it has to be noted, private property to be inherited by the law of succession. Even if a "Douhitra" has a claim, assuming for argument, he is not directly a "Douhitra" of the deceased pensioner but only of his brother. These therefore cannot perhaps be considered to have any claim for the pension of Hagalvadi family. No instance is traceable of a 'Douhitra' *as such* ever inheriting such pensions *vide* also para 3 of the notes *supra* and Endt. dated 24th September 1883 rejecting the claim of a Douhitra to Basamma's pension.

16. The State Huzur Treasury Officer raises another point, *viz.*, whether the whole pension of Rs. 270 per mensem should be registered or only Rs. 160 rendered vacant by the demise of Sughandaraja or this plus Rs. 30 *that was being allowed to Devammaji.*

17. The pension of Rs. 80 has been granted to Parvathammaji and cannot be available till her death.

18. The allowance of Rs. 30 granted to Devammaji is available, since she is reported to have died recently. In the order dated 24th September 1903 sanctioning an allowance of Rs. 30 to her, it was stipulated that she should enjoy it for life "subject to reversion to the counter-petitioner (Basavalingaraja) or other representative of the family after her death." No claimant except Parvathammaji can be said to represent the family now and if any body is entitled to it, it is she (during her life)

19. Before proceeding further, it may be noted that the State Huzur Treasury Officer has not examined in his report the allegation occurring in para 7 of the statement filed by Siddamadappaji (representing Nanjundaraja No. (5) that the deceased Sughandaraja was married to a daughter of Soolagiri Zamindar but owing to domestic bickerings they had separated; it is also stated elsewhere that Sughandaraja never married but died as bachelor, *vide* page 6 of Sir Puttanna Chetty's letter on behalf of C. 6 and also petition of C. 3. In the absence of any judicial separation, she, as the widow of the deceased, will be entitled to the pension if she is alive. Whether this is true or false and if true, whether she is alive or dead and other particulars of this connection of the deceased have to be ascertained. It is possible that, being far away, they are unaware of all these proceedings. This aspect may perhaps be required to be examined by the State Huzur Treasury Officer, with a view to secure an assurance that there will be no claim from this alleged quarter after the decision is taken.

20. The report of the State Huzur Treasury Officer treats the pension throughout as if on a par with private property and dwells at length on the relative merits of the claimants according to law of succession by inheritance.

21. The foremost and the most cardinal principle to be considered in the devolution of Pollegar pensions is *whether the pension runs in the same family*, "a result which is highly desirable on grounds other than those of mere conformity to Hindu Law." The question of Hindu Law of Inheritance comes in for a consideration only after this principle is assured. Even for a recognition by Government of an adoption into a Pollegar family, this is the supreme test—whether it has the effect of keeping the pension within the family.

22. There is another point to be noted also. It is gathered that when Mr. L. Bowring gave an increase of 25 per cent to the stipends, he laid down that it was "subject to the condition that those paid to female incumbents will lapse on their demise." This was reiterated in 1880 when another increase was ordered ".....that the stipends held by females should lapse on their demise. This, however, must be considered as applying only to those cases in which stipendiaries have no issue or heirs."—This principle is being observed in actual practice.

23. These two principles form the basis for the consideration of this and similar other cases.

24. To begin with, the pension of Rs. 160 held by Sughandaraja may be considered. The claim of Nanjundaraja as the adopted son has already been examined and pointed out as not deserving of consideration. The possible survival of an alleged wife, a daughter of Soolagiri Zamindar and her claim cannot be examined in the absence of details on this behalf. There is no male member of the family to inherit the pension. The family of Sughandaraja and that of his brothers have run out and become extinct. The only pensioner known to belong to the family is Parvathammaji, widow of Basavalingaraja, who is already the recipient

of a pension of Rs. 80 held formerly by her husband. The widow of a pensioner is entitled to maintenance out of the family stipend and it is usually granted to her for life and lapses after her death, if she should leave behind no issue or heir. Accordingly, the pension of Rs. 160 has to be given to this claimant for life or *it should lapse to Government forthwith*—all other claimants belong to other families and are remote in relationship to the deceased. Their claims are untenable and have perhaps to be dismissed as such.

25. Secondly, there is the stipend of Rs. 80 now held independently by Parvathammaji. Since the pensioner is alive and is the registered holder of it, the pension is not yet available for consideration in any manner.

26. Thirdly, as regards the allowance of Rs. 30 of Devammaji, the same has to lapse since there is no representative of the family to get it as already pointed out.

27. In conclusion, it may be stated that the interests of each claimant are so divergent and independent of one another and appear to belong so entirely to families other than Hagalvadi that interests and integrity of the family, if any, cannot perhaps be subserved by the grant of the pension to any claimant now coming forward nor can any of them be expected to maintain the surviving members of the family, if any, out of the pension which (maintenance) is really the one object with which it is granted. Under these circumstances, the pension of Rs. 160 rendered vacant by the death of Sughandaraja and the allowance of Rs. 30 released by the demise of Devammaji *have perhaps to lapse to Government leaving* Parvathammaji, the widow of Basavalingaraja, to enjoy her share of pension of Rs. 80 *till her death* with such additions thereto, if at all as Government may consider necessary as the last surviving widow of the family out of the pension of Rs. 190 (Rs. 160 plus Rs. 30) to lapse as explained above. After her death, the whole pension of Rs. 270 will lapse to Government and the Hagalvadi family has to be considered as extinct for the purposes of Pollegar pension on her death.

28. Submitted for orders.

B. V. S.
17-9-30.

29. The decision in this case depends upon the view taken in respect of the following principles:—

(1) Whether the pensions granted to the Pollegars of Hagalvadi are hereditary;

(2) If they are not entirely lapsable, whether the succession should be regulated by Hindu Law under the principles of Mitakshara;

(3) whether succession to pension should be allowed, if they are to be granted to persons not forming a part of the original family;

(4) Whether the succession to these pensions should be regulated by the principles governing the devolution of Impartible Estates.

These points may be taken up after obtaining or finding of fact as below.

30. It would appear from the file that before the question is finally settled, it would be necessary to get information as to whether Sughandaraja was married or not in view of the contradictory statement made in para 7 of the statement of Suddamadappa, while Sir K. P. Puttanna Chetty states that he died a bachelor.

31. The State Huzur Treasury Officer might be requested to investigate and send up a finding of fact on this question so that the Legal Remembrancer may be consulted with reference to the issues raised and the pension case finally settled in conformity with previous practice and usage.

A. N. R.
8-12-30.

Financial Secretary.

32. I have carefully gone through the case and the records placed in the file.

33. The resume of the history of the case given by the State Huzur Treasury Officer in the first thirteen paras of his report is fairly correct.

34. There are two points for disposal—

Firstly, the disposal of the pension of Rs. 160 per mensem drawn by the last holder Sughandaraja, which has fallen vacant after his death on 20th May 1929;

Secondly, the devolution of the pension of Rs. 30 per mensem granted as maintenance allowance to Devammaji, which has also fallen vacant since her death on 22nd March 1925.

35. It is unnecessary to consider the question of the disposal of the 3rd share of the family pension now drawn by Parvatammaji. So long as she is alive, we need not confuse the issues by mixing this up with the above two questions which alone are for settlement now.

36. There are several claimants to the two vacant pensions; six as the State Huzur Treasury Officer states and nine as the statement of one Siddamadappaji alleges.

37. The views and conclusions of the State Huzur Treasury Officer as regards the several claimants except the 6th, *vide* paras 14-22 of the report seem to me to be correct and may be accepted. There remains only the claim of C. 6, which he discusses in paras 23 to 28. His conclusions and recommendations are contained in paras 29, 30 and 31. His view is that on the death of Sughandaraja and Devammaji, the pensions drawn by them should be merged once more in the corpus of the family pension and the next succession should be traced to the last holder who enjoyed the entire family pension. He would, however, exclude the widow of the said last holder, who is in receipt of a part of the family pension, as well as his daughters though alive, and nominates at once the daughter's sons of Basavalingaraja, as the preferential heirs of the two vacant pensions immediately and possibly also of the pension of Rs. 80 drawn by Parvatammaji after her death.

38. These propositions appear to me to be rather curious, supported neither by law nor by precedent.

39. Pollegar pensions are being continued *at the discretion of Government* so long as there are legal heirs. The general principles governing the devolution of such pensions are based on the Hindu Law of Succession, life pensions granted to widows being generally lapsed to Government after the death of the recipients.

40. In the present case, I should think that succession should be traced to the last holder, Sughandaraja, in regard to the pension of Rs. 160 drawn by him, and if there is no legal heir to him to whom the pension could be continued, it should lapse to Government.

41. I do not think that claimants No. 6 are legal heirs to him, as rightly contended by Siddamadappaji (*vide* page 7 of the statement) and that the view of the State Huzur Treasury Officer can be accepted. Their claims have to be rejected like those of the others in respect of the devolution of this pension. If Sughandaraja had validly adopted anybody as his son, and that person had established his claim, surely the vacant pension would have gone to him in preference to any one claiming through Basavalingaraja.

42. Had Sughandaraja left a widow and had she pressed her claim, it would have been considered in the same way as Parvatammaji's.

In the absence of legal heirs to Sughandaraja, on whom the vacant pensions could have been devolved in fairness to the family, the only proper course left is to lapse them to the State.

43. The decision of Government in regard to the pension granted to Devammaji for life was that it should revert after her death to 'Basavalingaraja, other representative of the family.' The former is dead. The last male holder who was in enjoyment of the pension was Sughandaraja and there is no legal representative to him, whose right has been established before the State Huzur Treasury Officer. This pension should also lapse to Government.

44. In the result, the claims of all the persons who have now come forward for the continuance of the vacant pensions in their favour may be rejected.

B. S.
17-1-31.

Third Member through Legal Remembrancer.

45. Claimants No. 6 are the last holder's brother's daughter's sons and are according to the Mitakshara Law, heritable bandhus (*Vide* Gour's Hindu Code, pages 1302 and 1359). In 18 W. R. page 331, the Calcutta High Court has held that a brother's daughter's son succeeds as heir, under the Mitakshara, in the absence of nearer heirs.

N. R. J.
4-2-31.

46. A brother's daughter's son is recognised as a legal heir under the Mitakshara Law, and the case represented in 18 W. R. 331 (Doorya *vs.* Janaki) is the leading case on the subject, and Text writers have accepted the decision as correct. *Vide* Mulla's Hindu Law (2nd edition), p. 46.

The brother's daughter's son is classed as an Atma Bandhu and is superior to other heirs.

P. M.
4-2-31.

The facts of this case have been exhaustively dealt with in the report of the State Huzur Treasury Officer and in the notes in the preceding sheets. I request kind reference to my note dated 17th January 1931 wherein I have expressed the view that the pension and allowance which have fallen vacant should lapse to Government in the absence of direct legal heirs.

A brief history of the case is as follows :—

Veerappaji was the original registered pensioner of the Hagalvadi Pollegar family. On his death, it was continued in the Government Order dated 9th April 1878 in the name of his eldest son Basavalingaraja, " for the support of the deceased's family consisting of two widows, five sons and two daughters. " Subsequently, in 1891, Government rejected the claims of Sadasivaraja and Lingaraja, sons of the deceased Veerappaji by second wife, to a share in the family pension. The whole pension of the family amounting to Rs. 270 was registered in the name of Basavalingaraja for the benefit of the rest of the family. Owing to dissensions among the family members, this pension was parcelled out. A sum of Rs. 30 was granted as maintenance allowance to Devammaji, the second wife of the late Veerappaji, and the balance of Rs. 240 was divided equally between Basavalingaraja and his two brothers, Sughandaraja and Chennaveeraraja. After the death of Basavalingaraja, his separate pension of Rs. 80 was conferred on his wife Parvathammaji (claimant No. 3) who is still enjoying the pension and is one of the claimants for the vacant pensions now under disposal.

Chennaveeraraja having died without issue, his share of pension was transferred to Sughandaraja, who at the time of his death was drawing Rs. 80 plus 80 or Rs. 160. The disposal of this pension is one of the points for orders.

Devammaji who was granted the maintenance allowance of Rs. 30 having also died, the disposal of this allowance is another point for consideration and orders. In the order sanctioning the allowance, it was stated that it should revert on her death to Basavalingaraja or other representative of the family existing at the time.

The question therefore is, who is the nearest heir or legal representative of the family to whom the pension drawn by Sughandaraja, *viz.*, Rs. 160 as well as the maintenance allowance of Rs. 30 drawn by Devammaji may be continued.

The claims of Nos. 1 to 5 have been rightly rejected by the State Huzur Treasury Officer and I agree with him.

The claimant No. 5 represents through his guardian and counsel that he is the adopted son of the deceased, Sughandaraja. It is a well established rule that adoption for purposes of recognition of title to Pollegar pensions should be made only with the consent of Government. Such approval not having been obtained in this case, the petitioner's contention cannot be accepted. He has put in a petition for being given an opportunity for hearing to represent his case through counsel.

Claimants No. 6—the daughter's sons of Basavalingaraja, have preferred through their guardian Sir K. P. Puttanna Chetty a memorial dated 30th January 1932 supplemental to the representations made to the State Huzur Treasury Officer.

Their case briefly is:—

(1) Succession to the vacant pension should be traced from the last registered holder of the full pension of Rs. 270—Basavalingaraja.

(2) The petitioners who are his Douhitras are the rightful claimants for the family pension and should be preferred to other distant heirs.

(3) The pension should not lapse to Government merely because of the absence of legal heirs in the male line.

(4) The petitioners will have no objection to the pension being continued in favour of Thayammaji, their mother, if Government deem fit to do so.

The legal opinion recorded from time to time in regard to devolution of Pollegar pensions is that they are not in the strict sense of the term heritable property and that it is within the discretion of Government to continue the vacant pensions in whole or in part among the heirs of the deceased pensioners. In cases where there are no near heirs natural or adopted, nor any members of the family who are dependent upon the deceased's pension, Government in the exercise of their discretion have lapsed the pension.

The points for consideration in this case are:—

(1) From whom should the succession to the vacant pension be traced?

(2) If there are no near heirs to the last holder, nor any members of the family dependent on the vacant pension, should it not be lapsed to Government?

As regards the first point, it may be pointed out that Basavalingaraja was at no time the beneficiary for the full pension of Rs. 270. The pension was registered in his name for the support of the whole family including himself. When it was partitioned, he was entitled to only Rs. 80 out of it and he continued to draw the same till his death. After him, his widow, Parvathammaji, is in receipt of the said pension.

Sughandaraja was in full enjoyment of the pension of Rs. 160 which has now fallen vacant. And under the general principles of Hindu Law, succession to the vacant pension should be traced from him. In this view, the claims of the petitioners No. 6 will have to be considered not as Douhitras of Basavalingaraja but as the brother's daughter's sons (Athma Bandhus) of the deceased, last holder.

As pointed out in the memorial, there is a precedent of Pollegar pension being continued to a daughter's son in preference to the agnates. But in that case, the daughter's son was in receipt of a portion of the pension even during the life time of the previous holder. The office has not been able to trace any case where a distant 'Athma Bandhu' like the brother's daughter's son has been given the deceased's pension. It has not been shown that these claimants had at any time participated in or were dependent on the family pension.

If, as contended, Basavalingaraja be considered as the last registered holder of the entire pension, it cannot be understood how the daughter's sons or even the daughter could exclude the widow of the previous holder or her own daughter who is alive and capable of inheriting. This is, however, a legal matter which arises as a side issue. I do not wish to express any opinion on it.

Having considered the question in all its aspects, I am respectfully of the opinion that the pension suspended by the death of Sughandaraja and the allowance of Rs. 30 granted to Devajammanni should lapse to Government in the absence of near male heirs natural or adopted to the last registered holder, Sughandaraja.

First Member. B. S.

31-1-1932.

These pensions are intended for the maintenance of the families of original Pollegars. When a family becomes extinct by the absence of natural or validly adopted male heirs, the justification for the continuance of its pension ceases. Whether Basavalingaraja or Sughandaraja is taken as the last holder, this Pollegar family has ceased to exist, as neither has left any male issue. If succession to these pensions is regulated as in the case of property, the pensions would have to be continued for all time and their benefit allowed to persons very remotely connected

with the original families, and there is no need for adopting this procedure. Instances of lapsing to Government Pollegar pensions when there are no male heirs are not uncommon and in a case of this family itself the claim of a Douhitra was rejected.

In these circumstances, I agree with the views expressed by the Financial Secretary.

Sir Puttanna Chetty has made a representation on behalf of his daughter-in-law and grand-sons on the ground that the latter are entitled to the pension as Douhitras. This claim has been fully examined in the above notes.

May be submitted to the Dewan.

M. N. K.
3-2-32.

Dewan.

I agree with the Member.

M. M. I.
16-2-32.

Opinion of Rajadharmapravina Diwan Bahadur K. S. Chandrasekhara Iyer, Esq., B.A., B.L., Retired Chief Judge of Mysore.

The facts are fully discussed in the office notes. The report of the State Huzur Treasury Officer is exhaustive, but savours in some places of special pleading.

I am inclined to agree entirely with the First Member and the Financial Secretary, and to hold that the various claims put forward are all of them inadmissible.

Of the two items of pension involved, the allowance of Rs. 30 long enjoyed by Devammaji (Veerappaji's junior widow) should now lapse with her death. Her uterine sons (one of whom is claimant No. I) were adopted away into other families, and have no claim now to succeed to her pension, as was indeed already decided in a Government Order of 15th January 1891. The Government had at one time materially increased the Hagalvadi pension (from Rs. 148-4-7 to Rs. 270); they may very well exercise their discretion to slightly diminish it now when circumstances amply warrant such a course.

The claims urged are principally with reference to the other item of Rs. 160 standing in the name of Sughandaraja.

There is no reason whatever for enhancing the allowance of his sister-in-law Parvathammaji (claimant No. III): Rs. 80 per mensem, which she has been allowed to draw since the death of her husband Basavalingaraja in 1918 seems quite sufficient for her own maintenance during the remaining term of her life, after which it should definitely terminate.

Claims IV and V are evidently "bogus" claims. And it need only be added as regards claimant No. V, that even if his adoption to Sughandaraja were a fact, it would be ineffective for want of Government sanction.

Claimant No. II, who is the adopted son of Veerappaji's daughter Rajamma, lies under a similar disqualification, his adoption not having been made with previous sanction.

There remains to consider only the case of the sixth set of claimants. These are the minor sons of Thayammaji, daughter of the previous registered Pollegar Basavalingaraja and widowed daughter-in-law of Sir K. P. Puttanna Chetty. Much is sought to be made of their being the daughter's sons or *douhitras* of Basavalingaraja. But if succession is traced, as it should be under the Hindu Law, from the *last* male holder, namely, Sugandharaja, they are only his *brother's* daughter's sons, and cannot have precedence either over Sugandharaja's sisters, if any alive, or over Basavalingaraja's daughters, of whom there would appear to be two alive, namely, the claimant's own mother Thayammaji, his daughter by a junior wife, and another daughter by the senior wife Parvathammaji.

However this may be, there is the final and fatal objection to the claim that its acceptance would be quite opposed to the whole scheme and policy of Pollegar

pensions. These are pensions specifically annexed to certain ancient families that had rendered valuable service to the State, and are intended for the personal benefit of scions of those families in the true sense of the term.

It would not be right to allow them to be diverted directly or indirectly to other families who have no such claim to consideration.

The term 'family' has a well understood significance in this connection; a man's family consists of himself, his wife, his lineal male descendants and his unmarried daughters. It admits of no doubt that under the Hindu Law a daughter or a sister ceases on marriage to belong to the family of her birth, and becomes a member of a different family, that of her husband: *Vide* Mulla's Hindu Law, 6th Edn., p. 220; also Mayne. Accordingly, Thayammaji having been married away into an entirely different family, that of Sir K. P. Puttanna Chetty, she and her sons must look to that family for maintenance, and have no claim on the Hagalvadi family pension.

There have been doubtless some few instances, in which Pollegar pensions, or portions of them, have been continued in favour of married daughters and their sons. These instances must have been due more or less to a benevolent straining of the discretion of Government in consideration of the worldly circumstances of the grantees; they cannot be regarded as constituting precedents to be necessarily followed.

It may be well perhaps to treat this as a sort of leading case and to lay down clearly the principles which should ordinarily regulate the continuance of Pollegar pensions.

K. S. CHANDRASEKHARA IYER.

3. *To The Comptroller—No. Fl. 6992, dated 12th March 1932, directs that the vacant pension of Sughandaraja should lapse to Government.*

4. *To Rajasabhabhushana Diwan Bahadur Sir K. P. Puttanna Chetty—No. Fl. 6993, dated 12th March 1932, forwards a copy of the above G. O. for information.*

5. *To Messrs H. V. Narayana Rao and B. Vasudeva Murthy, Advocates—No. Fl. 6994-5, dated 12th March 1932, informs that Government have passed orders directing that the pension should lapse.*

Memorial, dated 6th July 1932, from Sir K. P. Puttanna Chetty, Kt., C.I.E., re Hagalvadi Political Pension.

Opinion of Rajadharmapravina Diwan Bahadur K. S. Chandrasekhara Iyer, Esq., B.A., B.L., Retired Chief Judge of Mysore.

I have gone fairly carefully over the memorial presented by Sir K. P. Puttanna Chetty.

There is, of course, an appearance of much plausibility about the arguments, as is only to be expected when a clever and experienced lawyer is employed to formulate them. But I have not been able to find any really sound point that was overlooked by Government or any fresh point that necessitates a reconsideration.

All the pertinent grounds that had been originally urged on behalf of the petitioners were duly weighed by Government, though they may not all have been referred to and commented upon specifically in the final order. That order proceeds upon the quite sufficient and conclusive ground that no one who is not a "scion" of the "family" of the original grantee in the true sense of the term has a right to succeed to the vacant pension, and that the petitioners, as the daughter's sons of Basavalingaraja, are not so entitled.

The present petition for review assumes throughout that a Pallegar pension is exactly like any other private property, with all the ordinary incidents of Hindu Law applicable to such property, including "perpetual" and unrestricted succession

to the remotest degree of collateral relationship. It altogether ignores the essential character of such a pension as a grant by the State made for a specific purpose and under implied and well understood conditions.

If the basis of the contention now put forward were to be accepted, there could be no possibility of a Pollegar pension lapsing at all, so long as there was in existence some person able to claim the least tinge of blood relationship, however remote, to the original grantee.

Personally, I see no good reason at all for a reconsideration of the former decision of Government.

The question of a further hearing (in person and through counsel) at this stage is entirely a matter of discretion. Ordinarily, it would be merely another opportunity for clever counsel to confuse, cajole and if possible, intimidate the tribunal (by the use of complicated arguments, frightful legal terms, and so on).

But if it be decided to accede to Sir Puttanna Chetty's request in the matter, it will be desirable, before the hearing comes on, to depute a capable Secretariat Officer to pick up and make a careful precis of all useful and material orders and rulings showing the course of dealing by Government with Pollegar pensions in the past. Arguments may then be heard and final orders reserved.

I append a few additional comments on some of the specific points raised in the Memorial.

(Sd.) K. S. CHANDRASEKHARA AIYAR.

Additional Remarks.

Point (ii).—A personal hearing in such cases is a matter entirely in the discretion of Government. The present petitioners were not the only claimants to the vacant pension, and all concerned including themselves had the opportunity of putting forward and supporting their claims fully in writing, and they did do so as a matter of fact.

So far as the present petitioners are concerned, it is a question not of the Government seeking to "lapse" a pension more or less arbitrarily, but of the petitioners establishing their own right to succeed to it under the law and practice applicable to such pensions.

Point (iii).—The question is not simply one of nearness of heirship under the ordinary Hindu Law, but the fundamental question whether the petitioners, who by birth belong directly to the *gotra* or family of their father and paternal grandfather, can claim to be scions of the family of their *maternal grandfather*.

The decision of Government on the point is perfectly accurate.

Point (iv) and Paras 4 and 5 of Memorial.—This is simply to beg the question. The argument advanced merely confuses the issue as between the extinction of the line of succession to a deceased Hindu through failure of his heirs, however remote, and the extinction of the family of the original grantee through failure of *lineal* descendants (including heirs validly adopted).

The distinction between "gotraja" and "bhinna gotra," agnate and cognate, is very well understood in Hindu Law. A daughter's son is not a *gotraja*, but only a *bhinna gotra*, though he inherits by virtue of special texts. The petitioners, who belong to a different *gotra* or family from that of the original grantee, are not scions of the Hagalvadi family merely because they can trace their relationship to him through their mother.

Point (v).—Merely because a daughter's son is in the line of succession under the ordinary Hindu Law and entitled (in the absence of nearer heirs) to take the estate of a deceased Hindu as heir, it does not follow that political pensions granted by the State on special grounds and intended for a specific purpose can be allowed to be inherited indefinitely by the remotest heirs according to any rule of "perpetual succession." The benefit contemplated is conditional and cannot be appropriated when the conditions do not fully obtain.

Points (vi) and (vii).—This is a mere reiteration of a baseless claim, which has been negatived by Government after due consideration. It seeks virtually to deny to the State the right to see that a State grant is properly applied and utilised.

Precedents must be judged in the light of the particular facts to which they have reference. An exercise of discretionary power in one case cannot be relied upon as necessarily forming a binding precedent in a subsequent case, without reference to the actual circumstances and in derogation of the discretionary power in reserve. As far as I can gather, the Mysore State has never (in this matter of political pensions) recognized or acknowledged the right of succession of a daughter's son *as a matter of legal right.* Such a succession may have been occasionally permitted as a matter of grace,* but such permission of course stands on a very different footing from treating a Pollegar pension as involving all the ordinary incidents of Hindu Law as to succession. On the latter view, there would be no occasion at all for the State to interfere, and the right to the pension would become assimilated to any other civil right, amenable to unrestricted alienation, attachment, etc. It is impossible to contemplate any such development, and inadvisable to encourage claims which may lead to such developments.

Point (viii) and Para 8 of Memorial.—The quiet introduction at this stage of the idea of "the fiduciary character of the grant" is a clever move. But unless the contention is properly made out, and its direct and indirect implications fully explained, it would not do to accept it as a correct description of the position. It is not clear what the petitioners' authority is for asserting these pensions to be "fiduciary" grants. I do not believe that the Mysore Government have at any time accepted such a description as applicable to Pollegar pensions granted by the State. The incidents of such pensions, after all, must be determined entirely by the terms of the grant and the course of practice of Government in dealing with them.

To assume that such a pension is a "fiduciary grant" and then to deduce all sorts of legal incidents from such assumption is, of course, altogether fallacious.

The Government have certainly never had any intention to deal arbitrarily with pensions voluntarily conferred by the State in the past. The attitude of Government is one of benevolent consideration for the families of persons who have done good service to the State in the past. To characterise the position as one of legal liability of a "fiduciary" character is surely a travesty of the facts.

Point (ix) and Para 13 of Memorial.—It is not true to say that the Government desire "to set up a new and peculiar law of succession" at variance with Hindu Law and usage. The question rather is how far all the ordinary incidents of the Hindu Law of succession are applicable to this class of political family pensions, and how far the petitioners' claim to belong to the same family or *gotra* as the grantee of the pension is valid.

The hand of the clever lawyer is revealed in the plausible contention that "the Government should not merely allege (any such intention) but prove it," etc. The suggestion here is that the questions involved are of the nature of a civil dispute between parties—the petitioners on the one side and the Mysore Government on the other. The Government are not likely to assent to any such extraordinary demand, one by which they are invited to step down from the position of sovereign grantee and final arbitrator to that of an ordinary litigant. If it be deemed advisable to give the petitioners a further opportunity for placing their representations before Government, it must be on the footing of their being really petitioners and not a party whose interests are opposed to those of Government.

The insinuation that Government "seek to abrogate valued rights of property of a heritable character" is a serious one, both as casting an unwarranted reflection on the intentions of Government and as implying a wholly inadmissible description of the character of a Pollegar pension.

Once it is admitted that a Pollegar pension is "a right of property of a heritable character" and that the position of Government in relation to it is of a "fiduciary" nature, the Government will have abrogated its right to see that every political pension is properly applied, and that it is enjoyed by those persons, and only by those, for whose benefit it was primarily intended. I need not dilate upon the far-reaching and undesirable consequences of any such admission.

---

* A point to be verified in the office.

Point (*x*).—This argument is a mere *non sequitur*. Because the original grantee was loyal and devoted to the Royal House of Mysore and therefore was deemed deserving of consideration, it does not follow that the same consideration should be indefinitely continued to every one who can claim his relationship, however diluted as to blood and remote as to degree.

(Sd) K. S. CHANDRASEKHARA AIYAR.
8-7-1932.

The case was argued by Sir Alladi Krishnaswamy Iyer, Advocate for the petitioner and heard by the First Member and Dewan on the 11th July 1932.

Petition dated 16th July 1932, From H. S. Nanjundaraja, son of Sughandaraja Pollegar of Hagalvadi and Kenchanagudda praying that the order passed in G. O. No. Fl. 6992—S. & A. 61-30-3, dated 11th March 1932, re. *Hagalvadi pension may be reviewed and the pension of Rs. 270 granted to him.*

Nanjundaraja is the claimant No. 5 referred to in the G. O. No. Fl. 6992—S. & A. 61-30-3, dated 11th March 1932. He claims the pension as the adopted son of Sughandaraja, the last male holder of the pension and also as the agnate (Sughandarajas' father Veerappaji's undivided own brother's son) representing the Pollegar family.

In the G. O., dated 11th March 1932, it is stated that "as regards claimant No. (5)" (the present petitioner) "his alleged adoption to Sughandaraja (even if it were a fact) is ineffective for the purpose of determining succession to the pension for want of Government Sanction." The petitioner states that he is the validly, adopted son of Sughandaraja and prays that a date may be given to him to present his case through an advocate. The petitioner also prays that permission may be granted to him to get a declaration from a court of law to the effect that he is the adopted son of Sughandaraja and also a direct legitimate lenial descendant of the last male holder of the pension as was done in the case of Rayadurg Pollegar family.

The claim of the present petitioner has been discussed at great length in (1) the State Huzur Treasury Officer's report, Para 22 (2) Office note Paras 12 to 14 and Financial Secretary's note in the file.

Submitted for orders. Old files are also put up for reference.

A. M.
28-7-32.

The case has been fully discussed in para 12 of the office notes and Financial Secretary's note, dated 31st July 1932 in S. & A. File 61-30 put up and finally disposed of in G. O. No. Fl. 6992, dated 12th March 1932. The ground of rejection of the petitioner's claim was that, his alleged adoption to Sughandaraja (even if it were a fact) is ineffective for the purpose of determining succession to the pension, for want of Government sanction. This view is contested by the petitioner in para 3 of the petition, and the petitioner prays for being heard through his Advocate on this and other grounds for reviewing the order in his favour.

For Orders.

A. S. R.
30-7-32.

Financial Secretary.

S. S.
2-8-32.

First Member.

A. S. R.
2-8-32.

4

There was one representation for a review of the order directing that certain pensions of the Hagalvadi family should lapse and it was by Sir K. P. Puttanna Chetty on behalf of his grandsons. His Counsel was heard on the 11th July 1932.

Another review petition is now received and it is from one H. S. Nanjundaraja who alleges to be the adopted son of Sughandaraja who was drawing a pension of Rs. 160 which has now been ordered to lapse. The claim of this petitioner was considered and rejected in G. O. dated 11th March 1932. He now requests that he may be permitted to make his representation through his Counsel. As a hearing was given to represent the claims of Sir K. P. Puttanna Chetty's grandsons, I think the request of the present petitioner to represent his case through his Counsel has also to be complied with.

The case may be submitted to the Dewan.

Dewan.

M. N. K.
3-8-32.

The First Member may be pleased to hear the petitioners. I don't suppose my presence is necessary.

M. M. I.
4-8-32.

First Member,

May be posted for hearing on the next day on which Muz. cases are taken up.

M. N. K.
6-5-32.

To Mr. H. S. Nanjundaraja, Bangalore City. Fl. 1643, dated 15th September 1932. Informs that the case will be heard on the 26th instant.

This case was heard on 26th September 1932.

Messrs. A. R. Nageswara Aiyar and H. V. Narain Rao appeared for the petitioner.

It was contended that the adoption of the petitioner by Sughandaraja did not require the previous approval of Government and that the direction contained in para 9 of the G. O. dated 29th October 1887 applied only to an adoption by a widow. A Pollegar pension is intended for the benefit of the family concerned and the petitioner can get no special right to the stipend under consideration on the ground that he is the adopted son of Sughandaraja. There are also doubts about the validity of his adoption as stated in the report of the State Huzur Treasury Officer and in the Memorandum dated 8th December 1929, submitted by Sir Puttanna Chetty to that officer in preferring a claim to the stipend on behalf of his grandsons. The petitioner's claim, if any, can really be only on the ground that he is an agnate member of the Hagalvadi Pollegar family. The records do not show that he or his father or his grand-father was dependent upon this pension for his support or received any share of it from either Veerappaji or his sons Basavalingaraj or Sughandaraj. It was, however, urged on behalf of the petitioner that there was a family karar according to which the petitioner's branch of the family was allowed a share of the stipend and that a copy of the *karar* had also been submitted to Government in 1890. There does not appear to have been any claim by members of this family for a share of the pension either when Veerappaji died and the whole stipend was registered in the name of Basavalingaraj or when, on account of dissensions in the family, the stipend was divided among Basavalingaraj, Sughandaraj, Channaveeraraj and Devammaji. Veerappaji was recognised as the Barawardar of this family pension because he was the adopted son of Sugappa Naika. The petitioner states that he is a descendant of a brother of Veerappaji and it is not clear how he can have any claim to the pension allowed to a family to which Veerappaji was adopted. The petitioner's lawyers offered to submit evidence to prove that his branch of the family had all along an interest in this pension and that its members were dependent on it for their support. The submission of this further representation may be awaited. From the available records, it does not appear that the petitioner's branch of the family has had any share of this pension

with the knowledge and approval of Government. Further action to be taken may be decided on receipt of the representation referred to above.

A memorandum headed "*Re* Political Pension of Hagalvadi Pollegar Family," presented on behalf of the petitioner, is placed in the file.

M. N. K.
27-9-32.

From Alladi Krishnaswami, Ekambra Nivas, Mylapore, Madras, dated 4th February 1933, to Sir Mirza Muhammad Ismail, Kt., Dewan of Mysore.

Sir Puttanna Chetty's Pension Affair.

DEAR SIR MIRZA,

I should like to make further representations to you. I request you to give me an opportunity when the file reaches you for final orders.

With kind regards,
Yours sincerely,
A. KRISHNASWAMI.

I do not think there is any object in again hearing Sir Alladi Krishnaswami Iyer. The case has been very fully considered and there are no reasons to modify the orders already passed.

Dewan

M. N. K.
11-3-33.

M. M. I.
14-3-33.

An order has to be passed on Sir K. P. Puttanna Chetty's representation presented through Sir Alladi Krishnaswami Iyer. A reply to the latter's letter, dated 4th February 1933, seems necessary and it may be ascertained from the Dewan's Office if it has been sent.

M. N. K.
17-3-33.

Submitted. It is ascertained that no reply has been sent.

A. S. R.
21-3-33.

An order as under may, I think, be issued.

"With his letter dated the 16th July 1932, Sir K. P. Puttanna Chetty submitted, as the guardian for his four minor grandsons—Rajasekharayya, Kumaraswami, Sreekantayya and Visvanathayya, a memorial requesting a reconsideration of the G. O. No. Fl. 6992—S. & A. 61-30-3, dated 12th March 1932, rejecting their claim to the Hagalvadi Pollegar pension. The memorialists, request that they may be given a hearing through their counsel, was complied with and Sir Alladi Krishnaswami Iyer argued their case on the 11th July 1932.

The main contentions of the memorialists are the following:—

(i) They are as much scions of the Hagalvadi family as any natural or validly adopted male heirs.
(ii) There are no nearer heirs than the memorialists.
(iii) A Pollegar pension can lapse to Government only when there are no heirs, and
(iv) A Pollegar pension is a grant of fiduciary character and its devolution should be governed by the same rules of succession as are applied to Pollepet lands.

The memorialists claim to be members of the Hagalvadi family as *dauhitras* of Basavalingaraj. A daughter's son is not a *gotraja* but only a *bhinnagotra* though he inherits by virtue of special texts. The petitioners belong to a gotra or family different from that of the original grantee of the pension under consideration and their contention that they should be regarded as the scions of the Hagalvadi family, merely because they can trace their relationship to such grantee through their mother, is quite untenable. The arguments that they are the nearest heirs and that the pension could lapse only when there are no heirs, proceed upon the unfounded assumption that Pollegar pensions are heritable private property, the succession to which is governed by all the ordinary principles of Hindu Law. These pensions are grants by Government made on special grounds and for a specific purpose and they cannot be allowed to be inherited indefinitely according to any rule of perpetual succession. Being political pensions allowed from public revenues and sanctioned at the discretion of Government, these stipends possess no fiduciary character whatever. They are intended for the maintenance of particular families and should cease when the families concerned cease to exist. The family of the original grantee has become extinct through failure of lineal descendants including heirs validly adopted, and the pension allowed to it has accordingly lapsed in the natural course. The memorialists have no claim whatever to the pension and there are no reasons to re-consider the orders already passed."

M. N. K.
15-4-33.

Dewan.

I agree.

M. M. I.
18-4-33.

To, Sir K. P. Puttanna Chetty, KT. C.I.E., No. Fl. 5710-11—S. & A. 41-32-4, dated 24th—25th April 1933.

The Comptroller to Government, directs that there are no reasons to reconsider the orders already passed.

Letter No. S. H. T. 781, dated 11th—16th August 1930, from the Comptroller to the Government of His Highness the Maharaja of Mysore, Bangalore, to the Secretary to the Government of His Highness the Maharaja of Mysore, Financial Department, Bangalore.

I have the honour to forward herewith for the orders of Government the report of the State Huzur Treasury Officer, Bangalore, in the matter of the succession to the Hagalvadi Pollegar political pension which has fallen vacant by the demise of the last holder.

Letter No. 666, dated 8th August 1930, from the Senior Assistant Commissioner in charge of State Huzur Treasury, to the Comptroller to the Government of His Highness the Maharaja of Mysore.

I have the honour to submit the following report in the matter of the succession to the Hagalvadi Pollegar pension rendered vacant by the death of H. Sughandaraj:

History of the case.—The facts of the case as gathered from the old records are briefly as follows:—

Veerappaji or Veerappa Naik, the adopted son of Soogappaji was the original barawardar of the pension in question which after undergoing changes amounted to Rs. 148-4-7 at the time of his death on 31st Dec. 1877. He had married two sisters

simultaneously by name Thayammaji and Devammaji, being the daughters of Rani Devammaji, daughter of the late Coorg Raja. Thayammaji the elder wife bore three sons, (1) Basavalingaraja (2) Sughandaraja (deceased) and (3) Chennaveeraraja and two daughters; while Devammaji the younger had two sons Sadasivaraja (claimant No. 1 in this case) and Lingaraja. Among the sons, Sadasivaraja, the elder son of the junior wife was the first to be born, Basavalingaraja, the eldest son of the senior wife being about three years younger than the former.

3. Veerappaji died on 31st December 1877. On his death, the then Khazana Bakshi made enquiries and reported in his docket No. 33, dated 29th March 1878, that the deceased Veerappa Naik, while alive, had forwarded an application on 29th December 1877 soliciting that after his death, his pension may be transferred to Basavalingaraja the eldest son of his first wife Thayammaji; that the said Thayammaji had deposed at the enquiry that she would be responsible to maintain both families from the stipend; that Devammaji the younger widow had neither appeared before him, nor applied for the pension; and that in the circumstances the pension of Rs. 148-4-7 drawn by the deceased Veerappa Naik may be ordered to be continued to his eldest son Basavalingaraja from 1st January 1878 for the support of the entire family. The recommendation was sanctioned by the Chief Commissioner in his Order No. 3, dated 9th April 1878.

4. Affairs ran smoothly for about ten years, when for the first time, on or about 3rd December 1887, the junior widow Rani Devammaji put in an application to the Dewan for a partition of the family property, on behalf of her son Sadasivaraja. This was referred to the Khazana Bakshi for report, suggesting that, an amicable settlement—to which both parties seemed to be agreeable,—might be arrived at, and litigation avoided. This wish did not however materialize, on account of excuses and postponements on either side; and the Khazana Bakshi submitted a report with his letter No. 16, dated 17th December 1889, in which he suggested that the pension might be suspended till the parties came to amicable terms. This was approved by the Dewan in G. O. No. 9850—1105, dated 13th March 1890, in which it was directed at the same time, that in the event of the parties failing to come to a decision amongst themselves, the Khazana Bakshi was to hold enquiry into the matter and report upon " the best and most equitable devision of the pension among the parties entitled to the same, giving due consideration to the allegation of adoption (of Sadasivaraja) and to the needful maintenance allowance to the female members entitled to such."

5. The Khazana Bakshi accordingly submitted a detailed report in his letter No. 17, dated 8th November 1890. Government passed orders thereon in their proceedings No. 11194-6—1476, dated 15th January 1891 as follows:—

" Upon a careful consideration of the above report and *of the circumstances connected with the adoption of Sadasivaraj by Devammaji of Benares* (widow of Lingaraj of the Coorg family), and the adoption of Lingaraj by Rajammaji (widow of Somasekhara Raj of Coorg), and having reference to the fact *that the Hagalvadi pension was continued to Basavalingaraj at the special desire of the late Pollegar*, the Government are of opinion that neither Sadasivaraj nor Lingaraj (adopted into other families as above stated) can be held to have any claim to a share in the Hagalvadi pension enjoyed by their father during his life time and, since his death in 1878, by his eldest son Basavalingaraj by senior wife named Thayammaji.

" Under such circumstances the pension held in abeyance under the orders of 13th March 1890 will be disbursed to Basavalingaraj at once with arrears."

This Government order is quoted *in extenso* because it constitutes an important land mark in this case, and sets at rest many doubtful or contentious points.

6. The next stage in the case is G. O. No. 2—P. & A. G. F. 104 of 1892, dated 3rd July 1894, by which the Hagalvadi pension was raised to the present existing scale, *viz.*, Rs. 270 per month with effect from 1st July 1894.

For sometime all went well, but gradually dissensions arose between the brothers, and in his letter No. 7, dated 28th August 1903, the Khazana Bakshi submitted for the orders of Government, a petition dated 27th August 1903, addressed by H. Sughandaraja and H. Chennaveeraraja in which it was stated that their mother Thayammaji died two years previously, that since then, their brother Basavalingaraja who was drawing the Hagalvadi Pollegar family stipend of Rs. 270

a month, had not been supporting them properly and urging a partition of the pension of Rs. 270 per month with retrospective effect. This was followed by a telegram to the Dewan on 29th August 1903, to the same effect. In their letter No. P. P. 52, dated 24th September 1903, Government passed *ad-interim* orders on these representations to the effect that pending detailed enquiry by the Khazana Bakshi, in the presence of both the parties, the payment of pension to the registered pensioner, may be held in abeyance except to the extent of Rs. 80 a month.

7. The Khazana Bakshi held the enquiry referred to above, and submitted a report with his letter No. 14, dated 4th December 1903, in which he recommended that "Basavalingaraja should be the Registerdar and Chief Pollegar, and that the brothers' names should be recorded as sub-sharers, entitled to receive their shares of the pension direct from Government upon their independent receipts." He added that he was "not in favour of multiplying the number of registered Chief Pollegars" *as it would "swell the list for Palace and other invitations,"* and drew attention to the G. O. No. P. P. 98, dated 12th November 1900 in which the same principles had been affirmed.

8. In the meantime, Devammaji the mother of Sadasivaraja raised the question of her being given a separate maintenance which was opposed by Basavalingaraja. Government called for a report, which was submitted by the Khazana Bakshi with his letter No. 6, dated 19th—20th August 1903. In the said report it was stated that "as the three grown up sons by the first wife Thayammaji are expected *to maintain the prestige of the family with the attendant progressive responsibility*" he (Khazana Bakshi) was of opinion "that Rs. 240 calculated at Rs. 80 a month be allowed to each of them, *though continued to be drawn by Basavalingaraja* and the balance of Rs. 30 may be ordered to be paid to Devammaji during her lifetime *agreeably to the order of the late Chief Commissioner* already referred to (*Viz.*, No. 3 of 10th April 1878), with the proviso that the amount will revert to the Hagalvadi family after her death."

Government approved of the recommendation *in toto*, and passed orders accordingly in their Proceedings No. P. P. 53/54, dated 24th September 1903.

9. They also passed *ad-interim* orders on the Khazana Bakshi's report No. 14, dated 4th December 1903 already referred to, to the effect, that "pending final orders in the matter, the arrears of pension payable to the brothers Sughandaraja and Chennaveeraraja for six months at Rs. 80 each per month will be disbursed to them" in G. O. No. P.P. 118-9, dated 28th January 1904.

10. Final orders in the matter were also passed soon after that, by Government, in their Proceedings No. 139/40 dated 7th March 1904 in the following terms:—

"On a careful consideration of the case, the Government.....are pleased to direct that, pending further investigation on the petitioner's (Basavalingaraja's) allegation about Devammaji's circumstances in life, the orders already passed shall be duly enforced and that the balance of the *pension of Basavalingaraja* after deducting the maintenance allowance due to Devammaji, be equally divided among the three brothers, Basavalingaraja, Sughandaraja and Chennaveeraraja, and registered separately in their names.

"Opportunity must be availed of by the Officer in Charge of the State Huzur Treasury to impress upon these pensioners that *the continuance of the pension will depend upon their good conduct and respectability* and that they *must try to improve themselves by education and other ways.*

"The Huzur Treasury Officer must also use his influence to bring all such stipendiaries to *a sense of what is expected of them*, so as to educate their children and to train them up for some profession or other."

11. *The tentative* arrangement in regard to Devammaji's pension sanctioned in the above order was made *permanent* and absolute in G. O. No. P.P. 170/1, dated 21st April 1904. She was in receipt of the pension for about 22 years and is reported to have died on 22nd March 1926. The devolution of this pension is also one of the side issues in this case.

12. The brothers continued to enjoy each, his share of the pension till 27th September 1918, when Basavalingaraja the eldest died. His widow Parvathammaji applied on 31st October 1918, for a transfer of the pension in her name,

stating that she was then pregnant, and that there were no other claimants except herself.

The deceased Basavalingaraja had four wives, three of whom predeceased him, Parvathammaji being his fourth surviving wife. Besides her, Basavalingaraja left another heir in the person of Thayammaji his daughter by his second wife, who was married during his life time alone, to Mr. Sadasivappa son of Sir K. P. Puttanna Chetty. Except these two persons, *viz.*, fourth wife Parvathammaji and daughter Thayammaji, by second wife, there were no other heirs at the time, the first and the third wife having predeceased him without any issue.

The Comptroller reported these facts to Government in his letter No. 19/42, dated 3rd January 1919, and the Government accepting his recommendation, directed the continuance of the vacant Pollegar pension of Rs. 80 a month in the name of Parvathammaji with effect from 28th September 1918 in their Order No. F. L. 3885—S. & A. 51-18, dated 10th February 1919.

13. Chennaveeraraja the third brother, died on 29th June 1920 leaving no issue, his wife having predeceased him; and Government in their Order No. Fl. 3256– S. & A. 10-21-4, dated 17th December 1921, sanctioned the transfer of his pension of Rs. 80 per month to his elder brother Sughandaraja, who also died on 20th May 1929.

Such, in brief is a resume of the history of the case from the beginning up to the present time.

14. *Claimants.*—The pension of Rs. 160 per month rendered vacant by the demise of Sughandaraja, is now claimed by six persons, *viz.*,

(1) Sadasivaraja (C. 1), son of Veerappaji original Barawardar by his second wife Devammaji.

(2) Veeraraja (C. 2), the adopted son of Veerappaji's daughter Rajamma.

(3) Parvathammaji (C. 3), widow of the late Basavalingaraja the next registered holder of the pension after the death of his father Veerappaji.

(4) M. V. Sivappa (C. 4), who alleges himself to be the son of an alleged brother of Veerappaji.

(5) Nanjundaraja (C. 5), who claims to be a son of one Siddamadappaji, alleged to be the son of Madappaji alleged again to be a son of Soogappaji, and a brother of Veerappaji.

(6) Rajasekharaiya and his three younger brothers Kumaraswami, Sreekantayya and Visvanathayya (C. 6), all minors by their paternal grandfather and guardian Sir K. P. Puttanna Chetty, who claim the pension as 'Douhitras,' being the sons of Thayammaji, the daughter of Basavalingaraja, the last registered holder of the entire family pension of Rs. 270 per month.

The relationship of the claimants to one another, and the other members of the family is indicated in the genealogical tables filed by the parties. For the sake of brevity and obviate confusion, the claimants will be hereafter referred to as C1, C2, C3, C4, C5 and C6.

15. *Bases and Merits of the Claims.*—Sadasivaraja (C1) who appeared both in person as well as by his agent Mr. P. Sundaresan, B.A., L.T., and argued his case both orally as well as in writing, claims the pension on the ground (1) that he is the eldest, as well as the sole surviving son of Veerappaji; (2) that on the death of Sughandaraja, he was put in possession of all his movable and immovable properties by the Amildar of Gubbi Taluk with the concurrence of Sir K. P. Puttanna Chetty the guardian of C6, and (3) that his adoption by Rani Devammaji of Benares was declared invalid in the Benares court and it does not debar him from claiming his rights in his natural family.

The other claimants contend, that C1's mother Devammaji was not the legitimate but the *kudikey* wife of Veerappaji, that she had deserted her husband and gone away to Benares during his life time alone with her sons; that C1 having been adopted into another family loses his right in his own natural family and that his claim if any having been *definitely* and *finally* rejected by the Government themselves, so far back as 1891, cannot be revived *now* at this distance of time.

From what has already been stated at paras 2 to 5 *supra*, it will be seen, that neither C1 nor his mother Devammaji appeared before the Khazana Bakshi, nor pressed their claims soon after the death of Veerappaji on 31st December 1877, or for a long number of years after that either. In fact they seem to have advanced their claims *for the first time* on or about 3rd December 1887. It is also seen that two days before his death, Veerappaji had sent an application to the Khazana Bakshi, soliciting that after his death his pension should be transferred to Basavalingaraja the eldest son of first wife Thayammaji, and that it was transferred accordingly to him by the Chief Commissioner's Order No. 3, dated 9th April 1878. These facts lend considerable support to the allegations of the other claimants, regarding Devammaji referred to, in the previous paragraph. If she and her son C1 had any title whatsoever, surely they would not have slept over their rights for ten years!

However that might be, when the claim was actually advanced, as it was, on or about 3rd December 1887, the Government did not seek shelter under any *technical* grounds and dismiss it, but condoned the delay, and caused it to be *fully* investigated *on merits*; and it was only after mature deliberation that they passed the order quoted at para 5 *supra* on 15th January 1891. It will be seen from the terms of this order, that the "circumstances connected with the adoption of Sadasivaraj" (C1) were "carefully considered" and it was *held* that the adoption *was a bar* to "a share in the Hagalvadi pension." The date of this order is 15th January 1891, while the date of the judgment in suit No. 131 of 1881, on the file of the Sub-Judge of Benares, on which C1 relies, as having declared his adoption to be invalid, is 12th February 1884. In other words, the G. O. was passed nearly seven years *after* the judgment in question was delivered. This ground must therefore be presumed to have been pressed, and duly considered and rejected at the time of the passing of the G. O. of 15th January 1891. The matter has thus become *Res Judicata*; and it is not open to C1 to revive the question now after the lapse of nearly 49 years!

As regards the second ground, which affects C6, Sir Puttanna Chetty, in his representation on their (C6's) behalf, rightly contends (i) that "his letter to the Amildar of Gubbi Taluk about giving C1 the possession of the movables, etc., was written in obvious ignorance of his (C1's) legal position as an adoptee into a foreign (Coorg) family, which later came to his knowledge, and found a place in his first memorial of August 1929 (ii) that in any case it cannot bind the minors nor affect their legal rights; (iii) much less could it create new rights in Sadasivaraj which he did not or could not himself possess; and that (iv) Government not having been a party to the letter, are not bound by it." As regards the order of the Amildar-Magistrate of Gubbi, dated 24th June 1929 in P. R. Nos. 4 and 5/28-29 which is another piece of evidence on which C1 relies, the question at issue there was to whom the movable properties of the deceased Sughandaraja which had been seized by the police, were to be delivered. The Amildar-Magistrate passed an order under section 523 Criminal Procedure Code and directed that they may be delivered to Sadasivaraj who happened to be the only claimant at the time. This order cannot, by any stretch of imagination, be construed as a "*Judicial decision*," and it cannot affect the subsisting legal rights of others in this or other properties of the deceased. In any case, it cannot affect the subsisting legal rights of C6 or any other claimants to the *political pension* which he was enjoying, and which is the immediate subject matter of dispute in this case.

Thus all the contentions of C1 fall to the ground, and his claim must therefore be rejected once again.

16. Veeraraja (C2) claims the pension on the ground that he is the son of Rajamma a sister of Basavalingaraja and Sughandaraja, and a *douhitra* of Veerappaji. But it is seen from the records as well as the statements of the other claimants and his own petition that he is not her *aurasa putra* (natural son) but that she *adopted* him on the death of her husband Somasekhararaja of Coorg family on 27th February 1905, as they had no issue, Lingaraja the brother of Sadasivaraja (C1) previously adopted, also having died. It is a well-known principle of Hindu Law that "an adoption is made *solely to the husband*; and for his benefit," even though it may be actually made by his widow after his demise; and that the result of adoption is "that it transfers the adopted son out of his natural family into his adopting family so far as regards all rights of inheritance and the duties and

obligations connected therewith" (*Vide* Mayne's Hindu Law, 9th Edition, paras 112 and 164, Pages 144 and 224). In fact he is, so to say, *dead to his natural family*, and born in the adopted family. In this view, it follows that inasmuch as Rajamma was married to Coorg family, C2 has his position fixed in his adoptive father's family (*i.e.*, Coorg family); and not his mother's family. Moreover it must be remembered that he is not Rajamma's natural son, and therefore he has not got a drop of the Hagalvadi blood in his veins. Consequently he cannot have any claim to the Hagalvadi pension on the score of propinquity or consanguinity either. He is also debarred from claiming the pension on the identical ground on which Sadasivaraja (C1) and his *natural* brother and C2's *adoptive* brother is excluded under the terms of the G. O. of 15th January 1891 quoted at para 5 *supra*.

In these circumstances, the claim of C2 has also to be rejected.

17. Parvathammaji (C3) who appeared both in person, as well as by her agent Mr. A. Narasinga Rao, and Advocate Mr. R. Venkataramiengar, represents that except herself, her natural born daughter, her step daughter Thayammaji, and the four sons of the latter (C6), there are no other heirs, that all the other claimants except Sadasivaraja (C1) *are all bogus persons* who are *not related to the family at all*, that they are being heard of for the first time now; and as the widow of Basavalingaraja, she is entitled to succeed to the entire family pension of Rs. 270, including Rs. 30 which was sanctioned to the late Rani Devammaji for her maintenance and the allowance of Rs. 80 which she is herself getting.

Some doubt is cast about her legitimacy by the other claimants who allege that she is *not* the lawfully wedded wife of Basavalingaraja but only his *kudikey* wife. Apart from this, it is a well-known principle of Hindu Law that a woman's interest in the joint family property is *limited*, that a widow is *not* a co-parcener, but only an *heir*, and even at that, she is "*only heir to her husband*," that "she can only succeed to *his* property or rights, that is, to the *property which was actually vested in him*, either in title or in possession *at the time of his death*; that she must take at once at his death, or not at all; and that *no fresh right can accrue to her as widow in consequence of the subsequent death of some one to whom he would have been heir if he had lived*" (*Vide* paras 526 and 529 at pages 762 and 765 of Mayne's Hindu Law 9th edition). Consequently C3 cannot have any claim to the pension in question, which was inherited by her brother-in-law Sughandaraja by right of survivorship, except to the extent of Rs. 80 per month which she inherited from her own husband Basavalingaraja. Moreover, she cannot claim precedence as against the (senior) 'daughter' (Thayammaji) and the daughter's sons (C6) who take a higher rank, in the list of heirs, and who are both in existence in this case. So inferior indeed is the position of the widow that it has been held in "Bengal, Benares, Madras and Mysore" that "even the Crown would take by escheat in preference to her." (*vide* Mayne's Hindu Law, 9th Edition, Page 766). In these circumstances, the claim of C3 must also be held to be inadmissible.

18. The next claimant is M. V. Sivappa, who alleges that he is the son of one Veeranna alleged to be the uterine brother of Veerappaji, the original holder. The truth of these allegations, as well as similar allegations made by or on behalf of C2 and C5 are denied by C1, C3 and C6, who aver that they are *bogus persons, unknown to the family*, and that they have cooked up the claims, and *are putting it forward for the first time now*. It is significant that no mention whatsoever is made of any of these persons in the old records, and none of them put forward his claim at any time, during all these years when the question of the devolution of the pension in whole or in part, has been under litigation. Why did C4 or C5 or their fathers keep quiet when C1 and his mother sued for partition between the years 1887-1891? Why did they not press their claims at least on the death of Basavalingaraja on 27th September 1918, when conditions were *exactly identical* with what they are *now* or even better? Because from what has been stated already in para 17 *supra*, regarding the legal position of a widow, in regard to inheritence it will be seen that if their allegations in regard to their relationships with Veerappaji were true, they would perhaps have been better entitled to succeed to Basavalingaraja's share of the pension (Rs. 80) than Parvathammaji (C3). Does not this silence or acquiescence throw considerable suspicion on the *bona fides* of their alleged claim? Having slept over their rights, if any, during all these years, are they not *estopped* from setting them up *now* for the first time?

Besides this they have not adduced any evidence in regard to their alleged relationship with Veerappaji except their own interested statements.

19. In this connection, the following extracts culled from a "Brief account of the Pollegar stipendiaries of the Mysore State" compiled in June 1890 by the Khazana Bakshi, on the basis of "Sir Bowring's manuscript memorandum of 1862, printed report of 1877, and the particulars obtained from some Pollegars," will be found very interesting and useful in the elucidation of the points at issue.

"HAGALVADI AND KENCHANGUDDA.

'These two ancient principalities were annexed to Mysore by Hyder Ali and the families confined at Seringapatam until its capture by the British in 1799 *after which the surviving members, Soogappa Naik and his brother, Chenveerappa were provided with a pension of Rs. 135-9-9 and Rs. 22-9-7 in 1809 and 1812, respectively.*

Soogappa Naik also entered service and rose to Risaldary on Rs. 300 per mensem and Bakshy of Candachar Cutcherry. *He having married the surviving member of the Hagalvadi family*, both the families were blended into one. After his death *his adopted son Veerappa Naik* who married the two daughters of Devammaji, sister of the ex-Raja of Coorg, was allowed to succeed to the pension which is now held *by one of his five sons*, the amount being 148-4-7 per mensem.

In an earlier account prepared in 1877 by Col. Tredway Clarke, Offg. Secretary to the Chief Commissioner, no mention is made of the Hagalvadi Family, but the following particulars are given in regard to Kenchangudda:

VII. KENCHANGUDDA.

This ancient principality or "Palyam" was annexed to Mysore by Hyder Ali.

In 1799 the Pollegar was granted a pension of 100 pagodas by Dewan Purnaiya, and he filled several high offices under the Maharaja's Government.

In 1826, his adopted son Veerappa Naik who married the two daughters of the late ex-Raja of Coorg, received a pension of Rs. 79-1-5 per mensem, which was subsequently raised to Rs. 148-4-7.

Another member of the family, one Basavammanni enjoys a pension of Rs. 32-13-0. The total stipends of this family amount therefore to Rs. 181-1-7.

The same facts are repeated in letter No. 16, dated 17th December 1889 of the Khazana Bakshi to the Chief Secretary already referred to at para 4 *supra*. In the course of this letter he says:—

"Properly speaking Hagalvadi family has been absorbed in Kenchangudda family, Rani Ramavva the last surviving member of the former having contracted a marriage and transferred all her interests to Soogappa Naik of the latter family and *having died without a male issue.* Both the said Palleputs were annexed to Mysore by Hyder Ali and on the fall of Seringapatam, Soogappa Naik of Kenchangudda above alluded to was given by Dewan Purnaiya a pension of pagodas 100 in the Sowar Cutcherry Mootfarkatti; was in 1810 made Risaldar on Rs. 300 and afterwards promoted Bakshy Candachar Cutcherry. *He died in 1825, and his widow the said Ramavva adopted Veerappaji (said to belong to Hagalvadi family) under the authority of His Highness the late Maharaja.*

This Veerappaji succeeded to the father's pension which underwent changes and amounted to Rs. 148-4-7 at the time of Veerappaji's death which occurred in 1877."

20. The foregoing extracts,—clearly establish the following facts:—

(i) That Soogappa Naik and his brother Chennaveerappa were *the only surviving members* of both the Hagalvadi and Kenchangudda families, at the time of the capture of Seringapatam by the British in 1799.

(ii) The brothers *became separated*, and Soogappa Naik was provided with a pension of Rs. 135-9-9 in 1809, and Chennaveerappa with a pension of Rs. 22-9-7 in 1812.

(iii) That the pension, the succession to which is under dispute, is no other than the aforesaid pension of Rs. 135-9-9 granted *separately* to Soogappa Naik, and enhanced suitably from time to time.

(iv) That by the marriage of Soogappaji with Ramavva, the only surviving member of the Hagalvadi family, the two families of Hagalvadi and Kenchangudda became blended into one.

(v) That they had no issue and consequently Ramavva, Soogappaji's widow *adopted* Veerappaji after her husband's death in 1825.

(vi) That the authority of His Highness the late Maharaja, was obtained for the adoption.

(vii) That Veerappaji succeeded to the pension in question by virtue of the aforesaid adoption.

21. Who this Veerappaji exactly is, cannot be made out from the papers available in the old records. But granting that he is the same person he is described to be by C2, C4, and C5 in their statements, as well as the genealogical trees which they have furnished, that is to say, that he is the eldest son of Siddachennabasavappa Naik (Sivanappaji) and the elder brother of Veeranna the father of Sivappa (C4) and Madappaji the grandfather of Nanjundaraj (C5), and that this Siddachennabasavappa *alias* Sivanappaji is the same person as he, who is described as Chennaveerappa, the brother of Soogappaji in the "Brief account" referred to at para 19 *supra*, inasmuch as the brothers *became separated* so far back as 1809 and 1812, it follows that C4 and C5 who claim as the descendants of this Chennaveerappa, can have no right to the *separate* estate of Soogappaji, his *divided* brother. Moreover, we must remember that although Veerappaji might have been the natural son of Chennaveerappa, by his *adoption* to Soogappaji, he becomes dead, as it were, to his natural family and is born in his adoptive family, according to the dicta discussed at para 16 *supra*. Consequently neither C4 nor C5 nor any other agnate in the *natural* family of Veerappaji can claim precedence, as against agnates or cognates belonging to his adoptive family. This is probably the reason, why C2, C4 and C5 and their ancestors kept quiet all along and they are putting forward their claim for the first time now. But this cannot be admitted. This is also probably the reason why their names are not to be found in any of the lists of Pallegars stipendiaries prepared from time to time.

22. For the same reasons, the claim of Nanjundaraja (C5), whose case was argued ably by his learned counsels Messrs. H. V. Narayana Rao and B. Vasudevamurti has also to be rejected, in so far as it is based on the ground of his being, or alleging himself to be the grandson of a brother of Veerappaji, and therefore an agnate of the deceased Sughandaraja. But he claims the pension on another ground also, *viz.*, his *alleged adoption* by Sughandaraja.

With reference to this so called adoption, it has to be noted at the very outset, that the previous consent of the Government is absolutely necessary for an adoption in a case of this kind, especially as, in the event of there being no heirs, the pension would lapse or escheat to Government (*vide* page 179 of Mayne's Hindu Law, 9th Edition). It will be seen from the extract quoted at para 19 *supra* that such consent *was* obtained in Veerappaji's own case; and the example has been followed in other cases. The principle that previous sanction is a *sine qua non* to the validity and recognition of an adoption, is also expressly affirmed in G. O. No. 1678, dated 29th October 1887 as follows:—

"The rule of Hindu Law, which requires the previous sanction of the sovereign to an adoption .....and which prescribes that the boy adopted shall be the nearest of kin to the adoptive father, *is of special importance as regards Pollegar pension*, and must therefore be most scrupulously followed in *order to ensure the recognition of any adoption as valid for the purpose of succession to a Pollegar pension.* The strict enforcement of this rule would be the means of *keeping the pension in the same family*, a result which is highly desirable on grounds other than those of mere conformity to Hindu Law."

There is no evidence to prove that such previous sanction was obtained in the present case. On the contrary, it is admitted, it was not applied for or obtained.

The so-called adoption may be impeached on other grounds also, *e.g.*, want of notice to kinsmen affected like C3 and C1, although they were in Bangalore itself at the time, the suspicious nature of the transaction, which is alleged to have taken place on 6th May 1929 or just a fortnight before the death of Sughandaraja, the non-registration of the so called will and adoption deed, till nearly six months after his death, the implications arising from his remaining unmarried, etc. But it is not necessary to go into them now, since the adoption is *ab-initio* invalid for the reason just discussed, *viz.*, "want of previous sanction which is an indispensable and fundamental *sine qua non*. In the circumstances, the claim of C5 has also to be rejected.

23. There thus remains only the case of Rajasekhara and his three brothers (C6), grandsons of Sir Puttanna Chetty to be considered. These put forward their claim as dauhitras of Basavalingaraja, the last absolute holder of the *entire* hereditary political pension of Rs. 270 per month after the death of his father Veerappaji.

The position of a daughter's son is described by Manye in his Hindu Law (9th Edition) para 562, page 823, as follows:—

"The daughter's son, though a sapinda, is not a gotraja sapinda. He is *nearer in degree*, but exactly similar in class, to a sister's son or an aunt's son, who only come in as *bandhus*. Yet, according to all systems, even those which prefer the *gotraja sapinda* as far as the seventh degree, and the samanodakas as far as the fourteenth degree to the *bandhus*, he comes in *before the brothers and more remote sapindas*. The cause of this *peculiar favour* is to be found in the old practice of *appointing a daughter to raise up issue for a man who had none*. The daughter so appointed was *herself considered as equal to a son*. Naturally her son was equivalent to a grandson, and as the merits of a son and grandson are equal, he ranked as a son. Consequently, we find him enumerated among the subsidiary sons, and taking a very high rank among them, generally second or third. Subsequently the appointment of a daughter to raise up issue for her father became obsolete. But the fact of the nearness of daughter and daughter's son remained, and their natural claim to succession on the ground of mere consanguinity recommended itself for general acceptance. The daughter's son ceased to rank as son, but he retained his place next in succession to the daughter, or where there was no daughter."

We must remember that although Basavalingaraja married four wives, he had no issue during his lifetime except Thayammaji the mother of C6 by his second wife—Parvathammaji's (C3's) daughter being a posthumous child. Consequently it is not improbable that he might have had in his mind, this old practice of appointing a daughter to raise up issue for a man who had none, and with that object married her betimes in a respectable family. However this might be, leaving surmises aside and confining ourselves only to *facts*, it is seen from the Lagna Patrika sent to the Khazana Bakshi, filed in the records that the marriage took place on 20th February 1918. Mention is made of the sending of the Lagna Patrika to the Khazana Bakshi, although it may appear to be too trivial and unimportant an incident to find a place in this report, in order to show how it was *customary to notify every domestic occurrence* among the Pollegars to the Khazana Bakshi and what inferences we may draw from the significant omission to do so *only* on the occasion of the *alleged* adoption of Nanjundaraja (C5) by Sughandaraja.

But this is a digression. To take up the narrative at the point at which I left it, unfortunately Basavalingaraja died on 27th September 1918 or seven months and seven days after the marriage, and before the plan and purpose he might have had in view in contracting the alliance could mature and materialize. Probably if he had lived till his grandsons (C6) were born, he might have got the pension transferred to one of them. As it was, on his death his pension was transferred to his widow as she happened to be the most preferential heir *at the time* to that *moiety*. Now that not only Basavalingaraja but also his brothers are dead without male issue, the question is, which of the existing surviving members,—Parvathammaji or her daughter, or Thayammaji or her sons C6, should succeed to the vacant family pension *in its entirety*.

Policy and Principles applicable to Pollegar Pensions.

24. The policy and principles governing the grant and devolution of Pollegar pensions, are discussed in the brief account referred to at para 19 *supra*, as well as G. O. No. 1678, dated 29th October 1887, from which it appears,

(i) "That feudatory and independent principalities were the characteristic of the country before the time of Hyder Ali who swept them away taking the chiefs and their families captives to Seringapatam and annexing their possessions to Mysore."

(ii) That they were called upon to help the British, the Nizam, and the Peshwas "in the suppression of the common enemy with the promise of restoration to their rights."

(iii) That they were *rewarded* for their services, by the British and the Nizam by their being granted *Jaghirs* or by their former possessions (Palleput lands) being "restored to them in full or in part subject to the payment of a Pesh Kush or subsidy."

(iv) That in *Mysore* "it was deemed inadvisable to restore to them their old Palleput lands, and they were accordingly granted *money pensions*."

(v) That the devolution of these pensions is not regulated according to the ordinary Civil Law, but that *Government have reserved the right of recognition in each case.* This is affirmed in Art. 395, Mysore Civil Account Code, which says "The whole or a portion of political and state pensions, is continued to successors of holders *under the orders of Government in each case.*"

From this, it is obvious that both the Jaghirs and Zemindari estates in British India and Nizam's Dominions as well as the Pallegar pensions in Mysore had *a common origin*, and that they were granted for *political* reasons. Now *impartibility*, and *primogeniture* are the fundamental characteristics in the case of the former and there is no reason, why the same principles should not be held to apply in the case of the latter also.

25. As a matter of fact, a close and careful perusal of the history of this very case, as set forth in paras 2—13 *supra* especially the extracts quoted from the several reports made by the Khazana Bakshi from time to time as well as the orders of Government thereon—clearly shows how the very same principles of *impartibility* and *primogeniture*, have indeed been the tests applied for determining devolution on each occasion on which the question of succession or division has come up before Government. Thus on the death of Veerappaji, the pension was *not divided* among *all* his sons, but it was *registered* in the name of only one son, Basavalingaraja, the eldest of the three sons who remained with him in the family down to the time of his death,—the other two sons Sadasivaraja and Lingaraja having left him during his life-time, with their mother and being adopted into other families. Even when questions were raised by the disappointed brothers firstly by Sadasivaraja, and secondly by Sughandaraja and Chennaveeraraja, Government have affirmed this policy in clear and unmistakable terms, and the pension has always been treated as an *indivisible unit*, or an *integral whole.* Thus in the G. O. of 15-1-1891, (*vide* para 5 *supra*) it is stated "The *Hagalvadi pension* was continued to *Basavalingaraja* at the special desire of the late Pallegar, etc.". Again in G. O. No. 53—54, dated 24th September 1903, after reciting the circumstances which led up to Devammaji insisting on a separate maintenance allowance for herself, Government were "pleased to direct that *an allowance* of Rs. 30 a month as recommended by the Huzur Treasury Officer (*vide* para 8 *supra* for details) be given to Devammaji out of the *family pension* with effect from the date of order, *during her life* subject to reversion to the counter petitioner (Basavalingaraja) or other *representative of the family* after her death." But for Basavalingaraja not having treated his step-mother and brothers properly, it is conceivable, that the *integrity of the pension would not have been interfered with at all.* Even in the G. O. in which it was ordered that the pension should be divided among the three brothers and registered in their names separately (*vide* para 10 *supra*) it is described as the "*pension of Basavalingaraja.*" Nor does the partition appear to have been *final* and *absolute.* Because it was distinctly stated that "The continuance of the pension would depend upon their *good conduct* and *respectability* implying thereby that the arrangement was only *temporary* and might be

terminated at any time, in the event of the grantees proving themselves unworthy of their position.

26. Not only in this case, but also on other occasions Government have time and again, indicated in clear and unmistakable terms, that the pensions should not be regarded as *personal* gifts subject to all the incidents, *e.g.*, partition, alienation, attachment, etc., to which *private* property is liable under the ordinary Civil Law by which the latter is governed, but that they are granted for *political* reasons, and they are intended not only to help the grantees to live a life of comfort and ease, but *also to maintain and perpetuate the prestige, the dignity, and the traditions of these ancient families.* This highly desirable object would obviously be defeated, if it was open to look upon the pensions as ordinary coparcenery property, with all its attendant disabilities. Because any coparcener may, at any time, sue for partition, and at every one of these processes, *a fresh stock of descent* comes into existence ; and if this goes on indefinitely, it is conceivable a time may come, when the pension may become so fragmented and minute that its identity would scarcely be discernible and it would be next to impossible to fulfil the original plan and purpose for which it was granted. Accordingly, in all such cases, succession is regulated according to the law of primogeniture ; and the property devolves *on a single heir.*

27. No doubt the interests of the subordinate members of the family are not neglected, but suitable shares or allowances are carved out from the original estate without affecting its *Corpus to any material extent*, and given to these persons. But in all such cases, it is well understood, that the grant is not *absolute* but *limited to the lifetime* of the grantee or lineal descendents; and on the failure of such heirs, or on the cessation of the special conditions which necessitated the grant, the gift should revert to the principal holder, and become merged in the *Corpus* of the original property. It is for this reason, that *the estate as* a whole is always *registered* in the name of only one person, *viz.*, the eldest son or other heir in the seniormost line, on whom alone devolves the *responsibility of perpetuating the prestige, the dignity and the traditions of the ancient family.* Although shares or allowances might be given to the other members for their subsistence, they must not regard it as their main source of livelihood but look to other means to supplement their income. Accordingly, we find it enjoined in the G. O. of 7th March 1904 (*vide* para 10 *supra*) that the Huzur Treasury Officer "should impress upon these petitioners (Sughandraja and Chennaveeraraja).....that they must *try to improve themselves by education and other ways.*" In the same G. O. he is also required to " use his influence to bring all such stipendiaries to *a sense of what is expected of them, so as to educate their children and to train them up for some profession or other.*"

28. We have an illustration of all these principles in actual active operation in the case of the Yelandur Jahagir which was granted to Dewan Purnaiya for reasons similar to those on account of which these pensions were given to the Pollegars (*vide* para 24 *supra*).

29. In these circumstances, we must look upon the pension rendered vacant by the death of Sughandaraja *not as his private and personal* property but as the estate really belonging to the *entire Hagalvadi family* the last full holder of which was *Basavalingaraja.* In this view, it follows that we have to trace descent from *him* and *not* from *Sugandharaja.* We have already seen who all are the heirs of the former, and how as between them, the claims of Thayammaji and her sons (C6), are superior to those of Parvathammaji and her daughter under the Hindu Law. *No doubt under the ordinary Civil law, a daughter's son takes only after the daughter.* But, having regard to the *peculiar circumstances* of this particular case, it comes to the same thing whether the pension is registered *now* in the name of Thayammaji and is *afterwards* transferred to the name of her eldest son Rajasekharaiya, or it is registered straight away *now alone* in his name. The latter is, perhaps, the more desirable course in view of the high place given to a daughter's son as well as the fact that the attendant responsibility can be better discharged by a male heir than a female.

30. The next question is whether the whole of the Hagalvadi pension of Rs. 270 per month should be registered in his name, or only Rs. 160 rendered vacant by the death of Sughandaraja or *that plus* Rs. 30 the allowance that was being granted to Devammaji. No doubt C6 claim the entire pension of Rs. 270 per month including the allowance of Rs. 80 which Parvathammaji is enjoying under the G. O. of 10th February 1919 (*vide* para 12 *supra*). But I do

not think it is either legal or equitable to deprive her of the allowance which has already been granted to her. She may continue to enjoy it during her lifetime, and the question as to who should take it after that or whether it should revert to the corpus from which it was carved out may be left over for decision according to the circumstances of the case at that time.

31. *Recommendation.*—Thus, upon a careful consideration of all the circumstances of the case, I am of opinion that Rajasekharaiya, the eldest of the four sons of Thayammaji, may be registered as the *Barawardar* of the entire Hagalvadi pension of Rs. 270 per month from 20-5-1929 the date on which Sughandaraja died with the proviso, that following precedents, he must support his mother and younger brothers; and that as long as Parvathammaji is alive she should continue to receive her allowance of Rs. 80 *direct* from the treasury and enjoy it separately,—the question of its devolution after her lifetime or its absorption in the *corpus* from which it was carved being left over for decision according to the circumstances of the case at that time; and I recommend accordingly.

Petition, dated 30th January 1932, from Rajasabhabhushana Diwan Bahadur Sir K. P. Puttanna Chetty, Kt., C.I.E., Retired First Member of Council on behalf of his grandsons Rajasekharayya, Kumaraswamy, Sreekantayya and Visvanathayya, to the Government of His Highness the Maharaja of Mysore, Bangalore.

HAGALVADI POLITICAL PENSION.

In the matter of the political pension of the Hagalvadi family, the petitioners, Rajasekharayya, Kumaraswamy, Sreekantayya and Visvanathayya, minors by Diwan Bahadur Sir K. P. Puttanna Chetty, Kt., C.I.E., Guardian, beg to prefer the following Memorial supplemental to those submitted in August 1929 and 8th December 1929:—

(1) In the petitions submitted as above in 1929, the petitioners have established their claim as the nearest heirs as *douhitras* of Basavalingaraja, the last registered holder of the entire undivided pensions. The petitioners are the decendants of the last registered holder and are nearer in blood to him by way of consanguinity. They belong to the senior line of the Hagalvadi family. By virtue of the doctrine of propinquity as administered under the Mitakshara Law by which the family is governed, they have an indefeasible claim to succeed to Sugandharaja. The rights of the petitioners cannot be defeated by any of the other 5 claimants.

(2) The present petitioners claim as *douhitras* of Basavalingaraja, the last registered holder of the full pension, who was the eldest son by the senior wife of Veerappaji, the original registered holder of the hereditary political pension of Rs. 270 per month. Their rights to the pension cannot be defeated by any of the other claimants. As *douhitras* of Basavalingaraja, they come in, under the Hindu Law, *before* brothers and other more remote *bandhus*. If the Hagalvadi Palyam had remained intact, and the succession to it was in question to-day—in place of the political pension which has taken its place—there is no question whatever that the eldest daughter would be the preferential heir (see Kattama Nachiar *vs.* Dorasinga Tevar, 6 Mad. H.C. 3107). Government have in their Order No. 1678, dated 29th October 1887, themselves confirmed this view of the case. In that order, they observe:—"His Highness' Government are of opinion that it would be no more than bare justice to extend to Mysore Pollegar pensions, the same rule of succession as applied to Polleput lands." In view of this declaration, the claim of the petitioners is legally unassailable.

(3) Precedent also supports the petitioners' claim. His Highness' Government have repeatedly confirmed continued political pensions in the case of daughters and daughters' sons of Pollegars who have died leaving no male issue. The following are some of the cases in which Government have granted pensions either to daughters or to daughters' sons:—In the case of Anantharamaswami, Pallegar of Chikballapur, to his daughter, Putta Parvathammanni; the pension of Venkatanarayanaswami of the same Palleput was continued by Government to his daughter Nagara Lakshmi Ammanni and her son *Seshanna*: and the pension of Muddusami Naik, Pollegar of Rayadrug was continued to his daughter's son Venkatanarayanaswami (see G. O. No. 4995-499, dated 13th December 1887; No. 8687, dated 10th

November 1900; and No. 6859-65-18-4, dated 25th June 1919, respectively). These decisions of the Government recognizing the claims of daughters and daughters' sons of the last holder have been quoted in the previous petitions of the Memorialists from the history of Manjarabad and Rayadrug families.

(4) Finally, it has been suggested that neither the daughter of the last registered holder of the full pension (*i.e.*, Thayammaji, daughter of Basavalingaraja and mother of the present Memorialists nor her sons, the present petitioners, can claim the pension because they are not members of the same agnatic family as the last registered holder, and that for want of heirs, the pension should be declared lapsed to Government. It may, however, be stated that there is no ground for this view. It is settled law that when the Crown wants to claim by way of escheat, it must make out affirmatively that there are no heirs; (*vide* Gridhari *vs.* Government of Bengal: 12 M.I.A. 448; S.C.I. B.L.R. (P.C.) 44; S.C. 10 Suth (P.C.) 32). This means, in other words, that it lies upon the Crown to prove at least *prima facie* that the deceased left no heir before there can be an escheat. It has been held by a series of judicial decisions that the Crown can succeed to the estate of a deceased Hindu only when he leaves behind him no heirs recognized by the Hindu Law and the burden of proving that the deceased has left no such heirs is upon the Crown. (*Vide* 12 M.I.A. 448; 8 M.I.A. 302, 500; (Wallis C.J. and Seshagiri Iyer); Secretary of State and Surya Karanth; 30 M.L.I. 387; 3 L.W. 273; 1916 (I.M.W.N. 216); 37 Mad. 293; 45 B. 1108; 12 M.I.A. 448; and 51 Bom. 784). In *12 M.I.A. 448*, the deceased left no nearer relation than the brother of his grandmother and it was held that he was *bandhu* and that failing nearer bandhus, he was entitled to the property of the deceased as a relation of the deceased by a title of the Crown. In *51 Bombay 789*, it was held that a sister of a prostitute was entitled to succeed to her property before such property could be claimed by the Crown by escheat. In this case also, it was held affirming previous decisions that for the Crown to get by escheat it must be shown that the prostitute died without any heir or heirs at law. In *45 Bom. 1106*, it was held that blood relations at any rate succeed to the exclusion of the Crown on the failure of the husband's heirs. The Sthridhanam of a widow would go to her blood relations in preference to the Crown (37 *Mad. 293*, approved of). This decision has been followed in:—A.I.R. 1921; B. 138; A.I.R. 1926; All. 662; and 111 I.C. 521. The Memorialists herein are the daughter's sons of the last registered holder of the full pension. Both the petitioners and their mother are recognized as heirs under the Hindu Law, the daughters being placed *third* among the grade of succession among the Sapindas and the daughters' sons occupy the *fourth* place. Though they are strictly bandhus or Bhinnagotrasapindas, they inherit with Gothrasapindas and precede the mother, the father and brother and other Sapindas under the Hindu Law. This position of importance in the order of succession, the daughter's sons get by virtue of *express texts* of the Hindu Law and they succeed not as heirs to their mother *but as heirs to their grandfather*. Thus when the prepositus leaves behind him legally recognized heirs such as the daughter and her sons—as in the present Memorialists' case, the pension in question cannot legally escheat to the Crown. In fact, the heirs recognized under the Hindu Law fall under the three heads of:—

(1) *Sapindas*, including Bhinnagotrasapindas as above mentioned and specifically provided for in *express texts*.

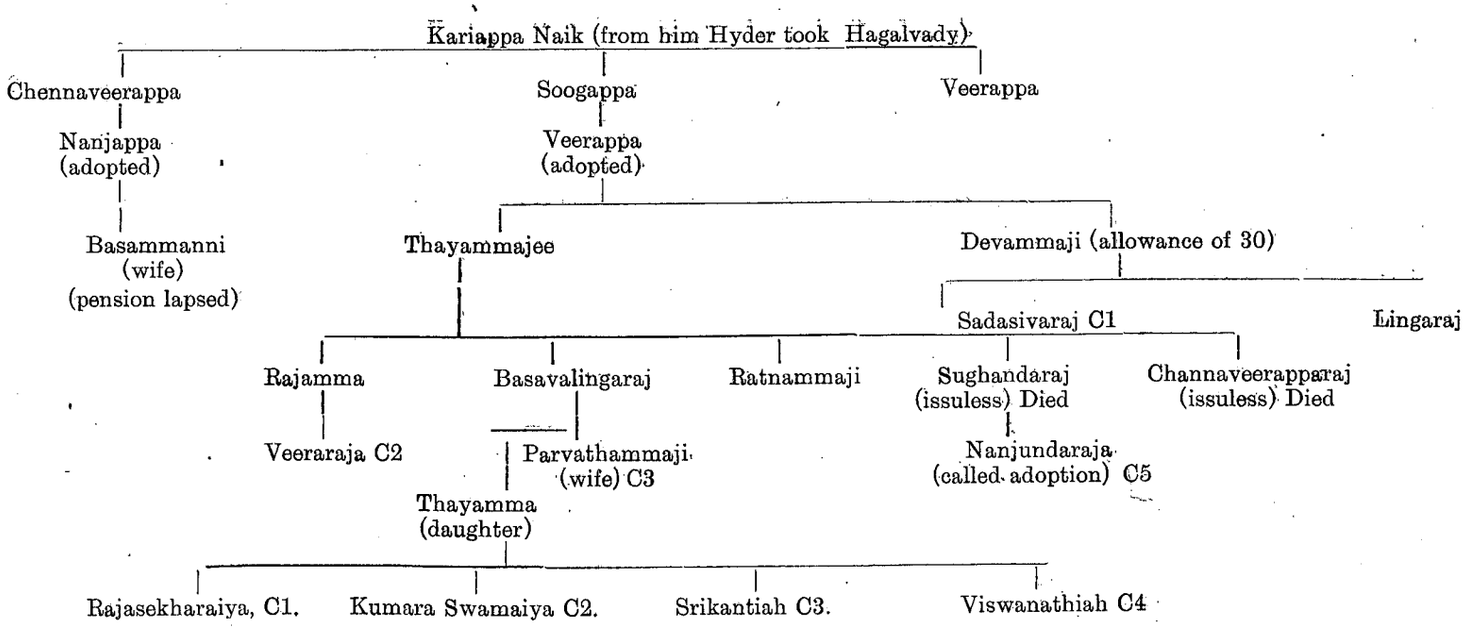
(2) *Samanodhakas* and

(3) *Bandhus*.

The order of their succession is in the order specified. It is only when heirs of the last class capable of inheriting has failed—and this must be proved affirmatively by the Crown—that the estate of a Hindu can be permitted to escheat to the Crown. The Crown has to prove in every case of escheat that no heir under any of these categories is available to claim the estate. It is only then that escheat can operate.

(5) The Memorialists pray that the Government may be pleased to continue the political pension in favour of Thayammaji, the daughter of the last registered holder of the full pension, or her four minor sons, the present Memorialists, as they might deem fit.

For which act of justice, the Memorialists will, as in duty bound, ever pray.



NOTE :—As appear from Government Records.
C4—His alleged relationship not borne out by records—Hence not shown in this Geneological tree.
C5 Do He also claims as adopted son of deceased.

Petition from Nanjunda Raju, minor by next friend Channabasappa, residing at Hagalvadi, Gubbi Taluk.

The petitioner begs to state as follows:—

Mr. Sughanda Raja was the pensioned Pallegar of Hagalvadi. He died on 20th May 1929. The petitioner is the adopted son of the deceased. After the death of Sughanda Raja, the petitioner preferred his claim for the pension that was being paid by the Government to the Pallegars of Hagalvadi. The State Huzur Treasury Officer and Khazana Bhakshi held an enquiry and the petitioner learns that he has submitted the papers to the Government for final decision.

The case involves complicated questions of the Hindu Law and it is necessary that an opportunity be given for the petitioner to have his case argued by an Advocate before final orders are passed. The Khazana Bhakshi also had afforded the same facility.

The petitioner therefore humbly prays that the benign Government may be pleased to fix a date of hearing and permit the petitioner to represent his case through an Advocate.

The humble petition of Sadasivaraja, Hagalvadi Pallegar of Gubbi Taluk in Tumkur District, respectfully sheweth:—

That the petitioner is the eldest son of Virappaji, Pallegar of Hagalvadi, and has been residing in Coorg, and that after the death of his younger brother Sughandaraja on 20th May 1929, the petitioner has succeeded to Virappaji's properties, both movable and immovable, and has been in possession and enjoyment thereof, he (Virappaji) having died intestate.

2. That, on the passing away of his brother Sughanda Raja, the petitioner has petitioned the State Treasury Bhakshi with necessary records, claiming the pension that Sughandaraja was getting during his lifetime.

3. That the petitioner, being the right heir-apparent, he submits that he alone is the legitimate claimant to the pension referred to above, and none else.

4. That, despite the fact that it is about two years since his brother Sughandaraja passed away, the petitioner regrets in not having been able to get the pension to which he is entitled, as in respect of the properties of Sughandaraja, movable and immovable, which he is now enjoying.

That, therefore, the petitioner most humbly prays that the pension enjoyed by his predecessor may kindly be bestowed on him, and that, if any further evidence of his claim is required, he is in readiness to place before you all the available records in strength of such claim.

———

Proceedings of the Government of His Highness the Maharaja of Mysore.

READ—

Letter No. S. H. T. 781, dated 11—16th August 1930, from the Comptroller, forwarding the report of the State Huzur Treasury Officer, Bangalore, in the matter of the disposal of the pensions of Hagalvadi Pallegar Family of Rs. 160 and Rs. 30 drawn by Sughandaraja and Devammaji who died on 20th May 1929 and 22nd March 1926, respectively.

2. Memorial dated 30th January 1932, presented by *Rajasabhabhushana* Diwan Bahadur Sir K. P. Puttanna Chetty, guardian of the petitioners Rajasekharayya, Kumaraswamy, Sreekantayya and Visvanathayya, minors, requesting the continuance of the pensions in their behalf.

ORDER No. FL. 6992—S. & A. 61-30-3, DATED BANGALORE, THE 11—12TH MARCH 1932.

The Hagalvadi family pension granted to Veerappaji *alias* Veerappa Naik was, after his death, being enjoyed in shares by his three sons by the first wife, *viz.*,

Basavalingaraja, Sughandaraja and Chennaveeraraja, and by Devammaji, his younger widow. The former were in receipt of Rs. 80 each and the latter was drawing Rs. 30. On Basavalingaraja's death without male issue, his pension was continued to his widow Parvathammaji. After Chennaveeraraja's death without issue, Sughandaraja was in receipt of his own pension as well as that of his deceased brother. Both Sughandaraja and Devammaji having died, their stipends have remained undrawn.

2. The State Huzur Treasury Officer states that six claimants have applied for the continuance of the pensions as under:—

(1) Sadasivaraja prefers his claim as the son of Veerappaji, original Barawardar by his second wife, Devammaji and as the step-brother of the deceased Sughandaraja.

(2) Veeraraja alleges that he is the adopted son of Veerappaji's daughter Rajamma, sister of the deceased Sughandaraja.

(3) Parvathammaji has put in a claim as the widow of the late Basavalingaraja brother of the late Sughandaraja.

(4) Sivappa claims to be the son of an alleged brother of Veerappaji.

(5) Nanjundaraja bases his claim as an adopted son of the deceased Sughandaraja and also as the nearest agnate of the last holder.

And (6) Rajasekharayya and his three younger brothers, all minors, by their paternal grandfather, and guardian Sir K. P. Puttanna Chetty claim as the daughter's sons of Basavalingaraja, brother of Sughandaraja.

3. After investigating the claims of the several applicants, the State Huzur Treasury Officer reports that claimants (1) to (5) have no right to the vacant pensions and that their petitions may be rejected. He, however, supports the prayer of claimants (6) and recommends that Rajasekharayya, the eldest of the four sons of Thayammaji may be registered as the barawardar of the entire Hagalvadi family pension of Rs. 270 per mensem subject to certain conditions.

4. The first claimant was adopted into another family while the second claimant is a member of a separate family altogether and both these can have no claim to the vacant pensions.

The third claimant is already in receipt of a stipend of Rs. 80 since her husband's death in 1918 which is sufficient for her maintenance.

Number 4 has had no share of the pension so far and his claim cannot now be entertained. As regards claimant No. (5), his alleged adoption to Sughandaraja (even if it were a fact) is ineffective for the purpose of determining succession to the pension, for want of Government sanction.

5. Applicants No. (6) prefer their claims as the daughter's sons or *dauhitras* of Basavalingaraja and if succession is to be traced, as it should be under the Hindu Law, from the last male holder, *viz.*, Sughandaraja, they come in only as his brother's daughter's sons and cannot have any precedence over nearer heirs.

Whether Basavalingaraja or Sughandaraja is taken as the last holder of the pension, for the purpose of tracing succession, this Pallegar family should be considered to have ceased to exist as neither of them has left any male issue. And when a Pallegar family becomes extinct by the absence of natural or validly adopted male heirs, the justification for the continuance of the pension allowed to it ceases.

Government are of the opinion that the acceptance of the claim of a daughter's son would be quite opposed to the whole scheme and policy of Pallegar pensions. These are stipends specifically annexed to certain ancient families and are only intended for the personal benefit of scions of those families in the true sense of the term, and it would not be right to allow them to be diverted for the benefit of other families.

6. In view of these considerations, the pension of Rs. 160 rendered vacant by the demise of Sughandaraja and the stipend of Rs. 30 granted to Devammaji should lapse to Government.

Memorial presented by Rajasabhabhushana Diwan Bhadur Sir K. P. Puttanna Chetty, Kt., C.I.E., Retired First Member of Council, to the Government of His Highness the Maharaja of Mysore, Bangalore with the following exhibits.

EXHIBIT A: Government Order No. Fl. 6992/S. A. 61-30-3, dated Bangalore, the 11th/12th March 1932.

EXHIBITS B. Series:

B. 1: Residency No. 117, dated 12th August 1880.
B. 2: Government Order No. 1678, dated 29th October 1887.
B. 3: Government Order No. W. 1308/140, dated 21st/23rd May 1893.

EXHIBITS C. Series:

C. 1: Government Order No. P. P. 53/54, dated Bangalore, 24th October 1903.
C. 2: Government Order No. P. P. 139/40, Bangalore, dated 7th March 1904.
C. 3: Government Order No. P. P. 170/1, dated Bangalore, 21st April 1904.

MEMORIAL.

In the matter of the Hagalvadi political pension, the undermentioned memorialists Rajasekharayya, Kumaraswamy, Sreekantayya and Visvanathayya, minors, by Diwan Bhadur Sir K. P. Puttanna Chetty, KT.,C.I.E., guardian, respectfully pray that the Government may be graciously pleased to reconsider their Order No. Fl. 6992/S. & A. 61-30-3, dated 11/12th March 1932, (*vide* Exhibit A) rejecting their claim to the said political pension and directing that it should lapse to Government, for the following reasons, in addition to those set forth in detail in their previous representations submitted in August 1929, December 1929 and January 1932:—

1. That there is no indication in the order in question that the grounds on which they base their claims have been given adequate weight and consideration.

2. That inasmuch as it is an *exparte* executive order passed on the mere perusal of the records without *hearing* the parties concerned and giving them an opportunity of adducing evidence and *arguing* their case, it cannot be considered to be the *final* decision of the Government in the matter and as such binding on them and it is therefore incumbent on the benign Government to revise, rescind or reverse the same in a manner in consonance with justice, equity and good conscience.

3. That while not disputing the correctness of the proposition that they, the memorialists, "cannot have any precedence over nearer heirs," they respectfully venture to submit that, as a matter of fact, there are no "nearer heirs" in this case than they themselves and their mother Thayammaji.

4. That both according to Hindu Law as well as Usage having the force of law, by which all such cases have been and are to date regulated, a Hindu family does not "become extinct" merely "by the absence of natural or validly adopted male heirs." In such a case, the daughter's son or *dauhitra* is competent to perform and does perform all the functions which an *aurasaputra* or *dattu putra* could have performed. In fact, he is regarded as a "subsidiary son" and occupies a very high rank among the class of heirs as will be evident from the following extracts from Mayne's *Hindu Law and Usage* (*vide* page 823, para 562, ninth edition):—

> "The daughter's son, though a *sapinda* is not a *gotraja sapinda.* He is *nearer in degree,* but exactly similar in class to a sister's son or an aunt's son who only come as *bandhus.* Yet, according to all systems, even those which prefer the *gotraja sapinda* as far as the seventh degree, and the *samanodakas* as far as the fourteenth degree to the *Bandhus* he comes in *before the brothers* and *more remote sapindas.* The cause of this *peculiar favour* is to be found in the old practice of *appointing a daughter to raise up issue for a man who had none.* The daughter so appointed was *herself considered as equal to a son.* Naturally her son was equivalent to a grandson, and as the merits of a son and grandson are equal, he ranked as son. Consequently, we find him enumerated among the subsidiary sons and taking a very high rank among them, generally second or third. Subsequently, the appointment of a

daughter to raise up issue for her father became obsolete. But the fact of the nearness of a daughter's son remained, and their natural claim to succession on the ground of mere consanguinity recommended itself for general acceptance. The daughter's son ceased to rank as son, but he retained his place next in succession to the daughter, or where there was no daughter."

5. That this authority coupled with the definition of the term, "scion," *viz.*, "' a piece cut from a twig or shoot of a tree or plant *for grafting into another plant;* a child or descendant used particularly of noble or illustrious families" (vide *New Standard Dictionary*, Vol. IV, page 2194) clearly shows that the memorialists are, contrary to what Government put forth in Para 5 of their Order under advertance, as much the "scions of the family in the true sense of the term" as any "natural or validly adopted male heirs."

6. That further, when it is recollected how deeply implanted is the desire for male progeny in the Hindu mind, and how although Basavalingaraja, the grandfather of the claimants, married four wives, he had no issue during his life-time except Thayammaji, their mother, there can be no doubt that but for the unfortunate accident of his having died suddenly and prematurely before they were born, he would surely have adopted one or other of them, as is usually done in such cases.

7. That apart from this aspect of the case and confining attention only to facts admitted on all heads, it is a matter of common knowledge, how the country was originally occupied by a number of petty chieftains, known as "Pallegars," who governed their own principalities, or "Palyams" as they were called; how on the subjugation of the country by Hyder Ali these "Palyams" were all annexed to Mysore; how their holders were called upon to help the British, the Nizam and the Peshwahs in the suppression of the common enemy with the *promise* that in return for their services, their ancient rights and possessions would be restored to them; how this promise was fulfilled, wholly or partially, in British India and in the Nizam's Dominions by the grant of Jaghirs *or* land Inams subject to the payment of a *peshcush* or subsidy; how it was deemed inexpedient, solely for political reasons, to follow the same procedure in Mysore; and how accordingly the grant of monthly stipends of money pensions was substituted for the restoration of the pallepat lands.

8. That having regard to the *origin* and *antecedent circumstances* connected with the grant of these "Pallegar pensions" as set forth above, especially the *fiduciary character* of the grant, it is obvious that the devolution of these pensions should be governed by the same rules of succession as applied to the "pallepat lands" which they replaced, subject of course to such safeguards of special conditions as might be called for, having regard to the altered *form* of the grants as well as the *political* considerations which necessitated the change of *form*. Thus, while not violating the fundamental principles of the Hindu Law of 'hereditary descent" and "perpetual succession" like any other *immovable property*, it is found that the pensions are usually treated as *indivisible units* and consequently registered in the name of a *single* heir, according to the law of primogeniture. This shows that the devolution should be regarded as being regulated more in accordance with the law applicable to "impartible estates" or "Zamindaris" rather than ordinary coparcenary property. For the same reason, invitations to Palace functions and other marks of respect, usually accorded to honoured personages, are extended *only* to the registered *barawardar* who, in his turn, is expected to maintain and perpetuate the prestige, the dignity and the traditions of the family as its head. Similarly, he is expected to look after the interests of the subordinate members of the family; and although there have been cases in which on account of minor differences and petty dissensions between them, suitable shares or allowances have been carved out from the original estates and given to the latter, who have sometimes been even registered as sub-sharers, it is well understood in all such cases, that the grant is not absolute or permanent but dependent upon certain contingencies, and limited to the life-time of such subordinate members and after their death or cessation of the special conditions, the gift should revert to the head of the family and become merged in the *corpus* of the original property, which is always regarded as an *indivisible unit* or *integral whole*. For the same reason, they are exempt from attachment in execution of civil court decrees; and the adjudication

of all questions relating to them is reserved by the Government themselves according to the merits of each case, consistently, of course, with the *fundamental* principles of Hindu Law above adverted to.

9. That these "principles" have time and again, been reiterated and affirmed in several Government Orders relating to the devolution of these pensions and notably in the three following proceedings :—

(i) G. O. Residency No. 117, dated 13th August 1880.
(ii) G. O. No. 1678, dated 29th October 1887.
(iii) G. O. No. W. 1308/140, dated 21st/23rd May 1890.

The first of these Orders, which is issued over the signature of the late Dewan Mr. C. Rangacharlu, as Revenue Secretary to Government *liberalized* the previous policy of treating stipends held by females as life grants liable to lapse to the State on their demise by interpreting it to apply "*only to those cases in which the stipendiaries have no issues or heirs.*" The second Order still further liberalized the previous policy by recognizing adoptions as a legitimate means of perpetuating the lineage on the failure of natural heirs; and bringing the current practice into line with the fundamental principles of Hindu Law and Usage and the popular sentiment in every respect. And the third Order lays down the principle that succession is to be regulated according to the *law of primogeniture* and at the same time the interests of the subordinate members should not be overlooked. Practically the whole of the law on the subject, or rather "the whole scheme and policy of Pallegar pensions," as Government are pleased to term it in the Order under consideration, is contained in these three Government Orders, which are accordingly set down *in extenso* in Exhibits B. Series to this memorial for the sake of ready reference. Reference is specially invited to the passages printed in italics.

10. That turning now to the origin and antecedents of this very case, we find that although the pension in question is known as the "Hagalvadi pension',' it is really the pension of the "Kenchanagudda family" or rather the pension of the "Kenchanagudda and Hagalvadi families" blended into one. For, in its inception, it was a pension of 100 pagodas granted in 1799 to one Soogappa Naik, the head of the *Kenchanagudda* family, who had married one Rani Ramavva, the then last surviving member of the *Hagalvadi* family. By this marriage, the interests of both the families referred to became merged into one. Soogappa Naik having died without issue in 1825, and both families being *consequently threatened with extinction*, His Highness the late Maharaja Krishnaraja Wadiyar III permitted the said Ramavva to *adopt* one Veerappaji *alias* Veerappa Naik (a member of the Hagalvadi family) *after* Soogappa's death. Veerappaji married Thayammaji and Devammaji, both daughters of Rani Devammaji, daughter of the late Raja of Coorg. The marriage was brought about by Mr. Bowring, in his dual capacity as Chief Commissioner of Mysore and Commissioner of Coorg, in order to strengthen the alliance between the noble families of both the countries. On Veerappaji's death on 31st December 1877, the pension which he was enjoying was ordered to be continued to his eldest son Basavalingaraja from 1st January 1878 "for the *support of the entire family*" as specifically set down in the Chief Commissioner's Order No. 3, dated 9th April 1878. The succession was contested by his step-brother Sadasivaraja but eventually the case was decided against him by Government, who, in their Order No. 11194-6/1476, dated 15th January 1891, were pleased to observe as follows :—

> "Having reference to the fact that the Hagalvadi pension was *continued to Basavalingaraja at the special desire of the late Pallegar*, the Government are of opinion that neither Sadasivaraja nor Lingaraja (his step-brothers *adopted into other* families) can be held to have any claim to a share in the pension."

Subsequently, dissensions having arisen between Basavalingaraja and his step-mother Devammaji on the one hand and his uterine brothers Chennaveeraraja and Sughandaraja on the other, Government in their Proceedings (i) No. P. P. 53/54, dated 24-9-1903; (ii) P. P. No. 139/40, dated 7-3-1904; and (iii) P. P. 170/1, dated 21-4-1904 ordered that Devammaji should be given a "maintenance *allowance* of Rs. 30 per mensem" out of the family pension during her life, subject to reversion to the counter-petitioner (Basavalingaraja) or the *other representative of the family*

after her death and that Basavalingaraja should be *registered as the Chief Pallegar*, his brothers Chennaveeraraja and Sughandaraja being registered as *sub-sharers* entitled to receive their shares of Rs. 80 each direct from the Treasury. At the same time, they were enjoined " to improve themselves by education and other ways " and look to a professional career or *other means of livelihood for themselves and their* children. Copies of these Government Orders are appended to this memorial and they speak for themselves (*vide* Exhibit C Series). Reference is especially invited to the passages italicised. In view of these circumstances, there can be no doubt that "Basavalingaraja" and *not* "*Sughandaraja*" should be regarded as the last holder of the pension for the purpose of tracing succession." and that the memorialists as his *dauhitras* and sole representatives of the senior-most line are entitled to inherit it, both according to usage as well as the law of primogeniture governing the devolution of the Pallepat lands as set out in Para 9 above.

11. That contrariwise, it has been observed in the Government Order under advertance that " the Government are of the opinion that the acceptance of the claim of a daughter's son would be quite opposed to the whole scheme and policy of Pallegar pensions." With due deference to this " opinion," it is respectfully submitted that as a matter of "fact" there are a number of cases in which the Government themselves *have expressly recognized the claims of daughters as well as daughter's sons* and even widows and mothers and sisters. Thus, it will be seen from the Government Order, dated 12th August 1880, quoted in Para 9 above, how on the death of Chikkappaiah, a Chikballapur Pallegar stipendiary, his pension was divided amongst *all* his survivors, *viz.*, his widow Venkatalakshmammanni and her two daughters, his mother Chayammanni and her two daughters, besides his step-mother Mangammanni who had no issue, with the proviso that on her death, her share should revert to Venkatalakshmammanni. Accordingly, on Mangammanni's death, her share *did not lapse to the State* but was continued to Venkatalakshmammanni, the *principal* or head *barawardar* (*vide* G. O. 2670-1/460, dated 28th June 1881). The combined pension of Rs. 67-8-0 is now enjoyed by her only daughter Parvathammanni, the present holder, since the death of the former, according to G. O. Fl. 898/S. & A. 53-21, dated 12th August 1922. Similarly, on Chayammanni's death, her pension was first transferred to her second surviving *daughter* Nagara Lakshmammanni and on the latter's death, it was transferred to her *grandson* (*dauhitra*) Poottannaiya by the first daughter who had predeceased her and on his death it has been inherited by his son Seshanna, the present holder (*vide* G. O.'s P. P. 86-87, dated 10-11-1900 and No. Fl. 3408-9/S. & A. 127-09-7, dated 19th January 1910). There are similar instances in the Manjarabad and Raidrug Pallegar families. Nay, there are cases in which the claims of *even illegitimate* issue have not been overlooked, they having been granted stipends. In the face of these precedents, it cannot be contended that the Pallegar pensions are " stipends specifically annexed to certain ancient families and are only *intended for the personal benefit of the scions of those families in the true sense of the term* " And even at that, the memorialists are not debarred from succeeding, as already shown in Para 5 above. Nor, would the recognition of their legitimate title amount to a diversion of the pension " for benefit of other families " as observed in the Government Order under advertence. For they are claiming it as *Basavalingaraja's dauhitras*, and *not as the grandsons of Sir Puttanna Chetty*, on whom or on whose family the succession confers no benefits whatsoever.

12. That referring to the question of escheat, it is seen from Mayne's *Hindu Law and Usage* (Page 865, Para 588), that the King comes *last* in the order of succession under the head " strangers," after every conceivable kind of heir is exhausted and that his title depends on the " general prerogative of the Crown as to heirless property." And it is settled law that " where the Crown claims by escheat, it must make out affirmatively that there are no heirs." As the case law on the subject has been exhaustively discussed in the previous memorials preferred by the petitioners, it is deemed unnecessary to repeat it here. The memorialists would, however, respectfully invite special reference to Para 4 of their memorial, dated 30th January 1932, which enunciates the correct *law* on the point. Turning to *facts*, it is seen from the printed list of Pallegars in the State, compiled so far back as 1876, that it is only the pensions of certain female stipendiaries and some illegitimate issue that were ordered to be lapsed to Government on their demise

and that *by specific orders in each case.* Thus, the pension granted in 1845 to one Basavammanni, probably a sister-in-law of Veerappaji, fell under this category and therefore it was lapsed to the State on her death. But Veerappaji's own pension, the succession to which is now in question, was *not* subject to any such qualification but it has throughout been governed by the *fundamental principles of Hindu Law* of "hereditary descent" and "*perpetual succession*" *as is the case with every one of the ancient families shown in this list.* And even in the case of female incumbents and illegitimate stipendiaries, there are instances in which the pensions which had been once ordered to be lapsed in accordance with the previous policy, have been subsequently restored to them or their descendants, especially after the policy was *liberalized* as pointed out in Para 9 above. It thus happens that all the sixteen ancient families shown in this list are extant to this day, and they will continue to be extant in perpetuity, with the solitary exception of Gudibanda, the name of which is not to be found in the recent printed lists. This is so probably because the last holder Doddamma died absolutely without issue or heirs. However that might be, this is the *only* case so far in which the entire pension has lapsed to Government. And now the same fate threatens to overtake not one, but two families, *viz.*, those of Hagalvadi and Kenchanagudda combined, which will be wiped out of political existence unless the Government Order under advertence is revised as prayed for.

13. That lastly, the memorialists would respectfully urge that the history of Pallepet pensions in the Mysore State, as outlined above, from the known records relating to them, and the various orders that His Highness' Government have, from time to time, passed in regard to them, bear out their contention that there is no peculiar rule of succession at variance with the Hindu Law that is at all applicable to them, and that the ordinary rules of Hindu Law are applicable to them with such modifications as flow from the very character of the property in dispute, *viz.*, pensions. There is absolutely no basis whatever for the suggestion that any special rule of succession at variance with general Hindu Law has grown up in regard to Pallepat pensions, which are merely a substitute for the original property (*i.e.*, the Pallepats) held by the family. And in the absence of any special rules of succession laid down by His Highness' Government, your memorialists respectfully submit that the ordinary rules of Hindu Law are *ipso facto* applicable to these pensions, which, your memorialists urge, are heritable property in the same sense in which any other property held by the last holder would be and is.

14. That it will be seen from what is stated in Para 10 above, how once before, when these families were threatened with a similar misfortune, His Highness the late Maharaja Krishnaraja Wadiyar III was graciously pleased to save the situation by permitting Ramavva, the widow of Soogappaji, to adopt Veerappaji *after* the former's death. This was in 1825 or 1826, that is, over half a century *before* even the Government thought of liberalizing the policy by recognizing the validity of adoptions as they did, by their Order dated 29th October 1887 referred to in Para 9 above. It will also be seen how subsequently the Chief Commissioner, Mr. Bowring, was pleased to interest himself personally to bring about Veerappaji's marriage not with one but with two wives of royal blood, in order to make the perpetuation of the lineage doubly sure and certain; how this expectation was realized by Veerappaji being blessed with five sons and two daughters; and how bountifully these descendants were provided for. Having thus protected both these ancient families with more than parental solicitude for well nigh a century and a quarter, it cannot be either the intention or the desire of the benign Government of His Highness the Maharaja of Mysore to permit the very names of "Hagalvadi' and "Kenchangudda" to be wiped out of existence, at this time of the day, which will be the inevitable result of the arbitrary deprivation of the memorialists of their legal inheritance, an inheritance to which *they are justly and legally entitled* and which alone would enable them as *the only persons qualified and competent according to Law to hand down to posterity* the traditions of the families with undiminished glory, of the very wherewithal of doing so and that in utter violation of the political pledges and the legal implications involved in the grant of these *pensions in lieu of Pallepet lands* as detailed above. For the foregoing, among other reasons, the memorialists respectfully pray that their legitimate claims may be recognised and either Thayammaji, their mother, or Rajasekharayya, the eldest of them, may be registered as the *Barawardar* of the entire pension of

Rs. 270 *per mensem* subject to the usual obligation devolving on the head member of the family in respect of the subordinate members in accordance with law and precedents.

15. That the memorialists also earnestly pray that *they may be given a hearing through their counsel before their memorial is disposed of* in order that the several points raised in their memorial may be placed before the Government in a satisfactory manner.

For which act of justice and generosity, the memorialists and their descendants in perpetuity will as in duty bound be ever beholden, even as their ancestors were beholden, to their Gracious Sovereign and His Noble Government.

K. P. PUTTANNA CHETTY,
Guardian for minor Memorialists,
RAJASEKHARAYYA, KUMARASWAMY, SREEKANTAYYA AND VISVANATHAYYA.

"SANTI NIVAS,"
V Road, Chamarajapet,
Bangalore City.

Petition dated 16th July 1932, presented by H. S. Nanjundaraja, son of Sughandaraja, Pallegar of Hagalvadi and Kenchanagudda, before the Government of His Highness the Maharaja of Mysore, at Bangalore. Re Political Pension of Hagalvadi Pallegar Family.

The Petitioner abovenamed begs to state as follows:—

(1) The minor Nanjundaraja preferred a claim for the pension of Rs. 270 due to the Hagalvadi Pallegar family and the Government have passed an order directing the pension to lapse. The copy of the proceedings of the Government in *Order* No: F. L. 6992—S. & A. 61-30-3, Bangalore dated 11—12th March 1932 is herewith appended. "The Government is of opinion that the family is extinct by the absence of natural or validly adopted male heirs and the justification for the continuance of pension allowed to it ceases." The Petitioner most respectfully submits that this view is not correct for the following amongst other grounds:—

(2) The Petitioner bases his claim to the pension of Hagalvadi on two grounds:—

(*a*) As the adopted son of Sughandaraja, the last male holder of the pension and properties.

(*b*) The direct descendant of Sughandaraja's father Veerappaji's undivided own brother's son. Hence the Petitioner is the nearest agnate representing the Pallegar family. The pension being granted to the Hagalvadi family and not to Sughandaraja personally, the petitioner represents the family even if the adoption be not recognised.

(3) As regards adoption, the Government in their Order expressed thus:—

"As regards claimant No. (5), his alleged adoption to Sughandaraja (even if it were a fact) is ineffective for the purpose of determining Succession to the pension, for want of Government Sanction."

The petitioner humbly submits that a validly made adoption cannot be set aside on the ground that previous sanction of Government was not obtained. There is no regulation in Mysore State nor any Standing Orders of the Government having the force of law requiring such a sanction before a Pallegar can take a boy in adoption. Till now, there has not been any case in which the Mysore Government have refused to recognise an adoption on the ground. On the other hand, the proceedings of the Government No. 1678, dated Mysore, 29th October 1887, relating to *an adoption by a widow* clearly lay down that even in such cases, an adoption case be recognised by the Government even if previous sanction had not been obtained. The proceedings read thus—

On the general question of validity of an adoption for the purpose of succession to a Pallegar pension, His Highness' Government are of opinion that no Native

State should refuse its recognition to any adoption properly made from among the next of kin. In 1822, His Highness the late Maharaja sanctioned the adoption of a son by a Pallegar widow and continued the pension to such adopted son (ancestor of the Petitioner) " Under such circumstances, His Highness' Government are of opinion that it would be no more than bare justice to extend to Mysore Pallegars the same rule of succession as applies to Pallepat land. In the case of the latter, *the succession vests in a son duly adopted* and to apply the same rule to Mysore Pallegar pensions would be in strict accordance not only with the fundamental principles of Hindu Law and the precedents of the State, when under Native State but also with the popular general feeling in the matter." The same principle has been recognised and acted upon by the Government in case of Raidurg Pallegar Muddaswami Naik whose adoption was recognised though no permission of Government before adoption was taken as is clear by *Proceedings* 5454—S. & A. 27-24-6, dated 4th April 1925.

It is laid down in Mysore Reversion Pages 256-264 that Hindu Princes on failure of male heirs of the body have a right to adopt to the exclusion of collateral heirs and that the British Government is bound to acknowledge the adoption provided that it is regular and not in violation of the Hindu Law.

It is thus clear that there is no restriction for a male to adopt and that such an adopted son stands in the same position as a natural born son.

Even in case of adoption by a Pallegar woman, the benign Government have in the Government Proceedings of 1889, referred to above, recognised the adoption made without the sanction of Government. The object as to why the sanction of Government is required in such cases is explained in the Proceedings No. 1678, dated Mysore, 29th March 1887, thus—

" The strict enforcement of this rule would be the means of keeping the pension in the same family." In that case, an adoption made without sanction by Government was recognised 30 years later. (*Vide Order* No. 6925-6—667, dated 5th February 1889). Even that test is satisfied in this case, as the Petitioner belongs to the same Hagalvadi family being the deceased's father's brother's son. Hence, it is bare justice on the part of the Government to recognise the adoption.

Apart from adoption, the petitioner represents the Hagalvadi family. Veerappaji enjoyed his pension till 1877 when he died. After his death, his sons enjoyed the same. If adoption be not recognised, then, the petitioner who is *Veerappaji's own brother's son* would be entitled to succeed as the pension was granted to Hagalvadi Pallegar family and not to Sughandaraj. Hence, mere fact that no descendants of Sughandaraj exist will not in any way make the family extinct. As long as Veerappaji's family including his brother's decendants exist, the family continues. In this connection, the nature of pension is well described in the Government Proceedings of 1887 thus—The cases to which these orders of the Madras Government were intended to apply were not exactly analogous to the Mysore Pallegar Pensions which were granted under very peculiar circumstances, partly in lieu of Pallepat lands partly on political grounds. In British territory, the Government confirmed to the Pallegars in most cases, their Pallepat lands subject to the payment of a *Peshkush*. In Mysore, this class of petty rules lost their political power and importance during the Muhammadan rule, and on the pacification of the country after the fall of Seringapatam, it was deemed inadvisable to restore to them their old Pallepat lands, and they were accordingly granted money pensions." The Petitioner humbly submits that the pension granted to his family was in lieu of the Pallepat lands being taken by Government and hence the same rule of succession as that applicable to other properties of Pallegar family has to be applied to pension also. If this submission be accepted, the Government cannot stop the payment of pension as long as there is a male member in the original family of Veerappaji according to the Hindu Law. It is only on the theory of *escheat* which constitutes the Ruler an heir to the estate of a person dying without any heir at all, that the Government can cease to pay the pension. In the present case, it cannot be said that the Hagalvadi Pallegar family became extinct by the absence of natural or validly adopted male heirs.

If the Government be not satisfied regarding the validity of adoption or whether the petitioner is the heir to the pension, the petitioner prays that reference may be made to the Civil Court or permission granted to the petitioner according to the

Pension Act No. 23 of 1871, *ss.* 4 and 6 to get the adoption declared valid and also to get a declaration that the petitioner is the direct legitimate lineal descendant of the last male holder, as was done in the case of Pallegar of Raidurg wherein the *permission* was granted to get a declaratory decree in the Civil Court regarding the adoption of his daughter's son.

The petitioner humbly prays that the order passed by the Government regarding that of the Petitioner may be reviewed and the pension be continued to him and thus save this ancient and respectable family from being thrown into streets as beggars, for which act of kindness, the Petitioner shall ever be grateful to the benign Government. The petitioner learns that the Government have granted an hearing in this case on the 11th instant and heard only the argument of *Mr. Alladi Krishnaswami Iyer*, Vakil, on behalf of the daughters' sons of Sughandaraja and thus the Petitioner also requests the benign Government to kindly grant a similar hearing and hear the Advocates of the petitioner and do justice in the matter.

Endorsement No. Fl. 1643—S. & A., dated Bangalore, 15th September 1932, granted to Mr. H. S. Nanjundaraja, c/o Mr. K. N. Sastry, Vitoba Temple, Santusapet, Bangalore City.

With reference to his petition dated 16th July 1932 *re* his claim to Hagalvadi Pallegar Family pension, Mr. Nanjundaraja is informed that the case will be heard in the Chambers of the First Member of Council in the Old Public Office Buildings, at 12 Noon on Monday, the 26th instant.

By Order,
A. SUBBA RAO,
For *Financial Secretary to Government.*

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

READ.—

Government Order No. Fl. 6992—S. & A. 61-30-3, dated 11—12th March 1932, directing that the pension of Rs. 160 rendered vacant by the demise of Sughandaraja and the pension of Rs. 30 granted to Devammaji of the Hagalvadi Pallegar Family should lapse to Government.

2. Letter dated 6th July 1932 from Sir K. P. Puttanna Chetty submitting a memorial on behalf of his four minor grandsons—Rajasekharayya, Kumaraswami, Sreekantayya and Visvanathayya praying for a reconsideration of the orders passed.

Order No. Fl. 5710-11—S. & A. 41-32-4, dated Bangalore, the 24th—25th April 1933.

With his letter dated the 6th July 1932, Sir K. P. Puttanna Chetty submitted, as the guardian, for his four minor grandsons—Rajasekharayya, Kumaraswami, Sreekantayya and Visvanathayya, a memorial requesting a reconsideration of the Government Order No. Fl. 6992—S. & A. 61-30-3, dated 12th March 1932 rejecting their claim to the Hagalvadi Pallegar pension. The memorialists' request that they may be given a hearing through their counsel, was complied with and Sir Alladi Krishnaswami Iyer argued their case on the 11th July 1932.

The main contentions of the memorialists are the following:—

(i) They are as much scions of the Hagalvadi family as any natural or validly adopted male heirs;

(ii) There are no nearer heirs than the memorialists;

(iii) A Pallegar pension can lapse to Government only when there are no heirs; and

(iv) A Pallegar pension is a grant of a fiduciary character and its devolution should be governed by the same rules of succession as are applied to Pallepet lands.

The memorialists claim to be members of the Hagalvadi family as *dauhitras* of Basavalingaraja. A daughter's son is not a *gotraja* but only a *bhinnagotra* though he inherits by virtue of special texts. The petitioners belong to a gotra or family different from that of the original grantee of the pension under consideration and their contention that they should be regarded as the scions of the Hagalvadi family, merely because they can trace their relationship to such grantee through their mother, is quite untenable. The arguments that they are the nearest heirs and that the pension should lapse only when there are no heirs, proceed upon the unfounded assumption that Pallegar pensions are heritable private property, the succession to which is governed by all the ordinary principles of Hindu Law. These persions are grants by Government made on special grounds and for a specific purpose and they cannot be allowed to be inherited indefinitely according to any rule of perpetual succession. Being political pensions allowed from public revenues and sanctioned at the discretion of Government, these stipends possess no fiduciary character whatever. They are intended for the maintenance of particular families and should cease when the families concerned cease to exist. The family of the original grantee has become extinct through failure of lineal descendants, including heirs validly adopted, and the pension allowed to it has accordingly lapsed in the natural course. The memorialists have no claim whatever to the pension and there are no reasons to reconsider the orders already passed.

M. SHAMANNA,

For *Financial Secretary to Government.*

To—Sir K. P. Puttanna Chetty, Kt., C.I.E.,
The Comptroller to Government.